(701) XIV/739

Abstract of the Regulations of government enacted for the Assessment and ~~Rea~~ Realization of the Land Revenues in Bengal, Bihar and Orissa, from 1793 to 1824.

A = Govt of Bengal

S = Law and Legislation/ Regulations/ Revenue/ Bengal/ 1893

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*** Where r is prefixed to any regulation, it implies that it is entirely *rescinded* or *superseded*.

A. D. 1793. REGULATION I.

A REGULATION *for enacting into a Regulation, certain Articles of a Proclamation bearing date the 22d March, 1793.—*PASSED *by the Governor General in Council on the 1st May, 1793, corresponding with the 21st Bysaak 1200 Bengal era; the 6th Bysaak 1200 Fusily; the 21st Bysaak 1200 Willaity; the 6th Bysaak 1850 Sumbut; and the 19th Ramzaan 1207 Higeree.*

Preamble.

THE following articles of the proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor in General in Council to the *zemindars*, independent *talookdars*, and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, Behar, and Orissa, are hereby enacted into a regulation, which is to have force and effect from the 22d March 1793, the date of the proclamation.

Decennial settlement declared conditionally permanent by the original regulations.

II. PROCLAMATION. ART. I.—In the original regulations for the decennial settlement of the public revenues of Bengal, Behar, and Orissa, passed for those provinces respectively, on the 18th September 1789, the 25th November 1789, and the 10th February 1790, it was notified to the proprietors of land with or on behalf of whom a settlement might be concluded, that the *jumma* assessed upon their lands under those regulations, would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East India Company, and not otherwise.

Governor General in Council empowered to declare the *jumma* assessed upon the lands under those regulations, fixed for ever.

III. ART. II.—The Marquis CORNWALLIS, Knight of the most noble order of the Garter, Governor General in Council, now notifies to all *zemindars*, independent *talookdars*, and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, Behar, and Orissa, that he has been empowered by the Honourable Court of Directors for the affairs of the East India Company, to declare the *jumma* which has been, or may be, assessed upon their lands under the regulations abovementioned, fixed for ever.

Jumma assessed upon the lands of proprietors with or on behalf of whom a settlement has been concluded, declared fixed for ever.

IV. ART. III.—The Governor General in Council accordingly declares to the *zemindars*, independent *talookdars*, and other actual proprietors of land, with or on behalf of whom a settlement has been concluded under the regulations above mentioned, that at the expiration of the term of the settlement, no alteration will be made in the assessment which they have respectively engaged to pay, but that they, and their heirs, and lawful successors, will be allowed to hold their estates at such assessment for ever.

Jumma which may be hereafter agreed to by the proprietors whose lands are held *khas*, or let in farm, declared fixed for ever.

V ART. IV.—The lands of some *zemindars*, independent *talookdars*, and other actual proprietors of land, having been held *khas*, or let in farm, in consequence of their refusing to pay the assessment required of them under the regulations above mentioned, the Governor General in Council now notifies to the *zemindars*, independent *talookdars*, and other actual proprietors of land, whose lands are held *khas*, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been, or may be required of them, in conformity to the regulations above mentioned; and

that no alteration shall afterwards be made in that assessment, but that they, and their heirs, and lawful successors, shall be permitted to hold their respective estates at such assessment for ever and he declares to the *zemindars*, independent *talookdars*, and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands, before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs, and lawful successors, shall be allowed to hold their respective estates at such assessment for ever

Terms at which lands belonging to Government may be transferred to individuals declared fixed for ever

VI ART V.—In the event of the proprietary right in lands that are, or may become, the property of Government, being transferred to individuals, such individuals, and their heirs, and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever

Assessment in former times liable to variation at the discretion of Government

VII ART VI.—It is well known to the *zemindars*, independent *talookdars*, and other actual proprietors of land, as well as to the inhabitants of Bengal, Behar, and Orissa, in general, that from the earliest times, until the present period, the public assessment upon the lands has never been fixed, but that, according to established usage and custom, the rulers of these provinces have, from time to time, demanded an increase of assessment from the proprietors of land, and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the *ryots*

Motives of the Court of Directors for abolishing this usage and fixing the assessment which is declared unalterable by any future Government

The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations, and the *zemindars*, independent *talookdars*, and other actual proprietors of land, with or on behalf of whom a settlement has been, or may be, concluded, are to consider these orders, fixing the amount of the assessment, as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country

Proprietors expected to improve their estates in consequence of the profits being secured to them

The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs, or successors, by the present, or any future Government, for an augmentation of the public assessment, in consequence of the improvement of their respective estates

Conduct to be observed by the proprietors of land towards their dependant *talookdars* and *ryots*

To discharge the revenues at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their dependant *talookdars* and *ryots*, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued The Governor General in Council therefore expects, that the proprietors of land will not only act in this manner themselves towards their dependant *talookdars* and *ryots*, but also enjoin the strictest adherence to the same principles, in the persons whom they may appoint to collect the rents from them He further expects, that without deviating from this line of conduct, they will regularly discharge the revenue in all seasons and he accordingly notifies to them, that in future no claims or applications, for suspensions, or remissions, on account of drought, inundation or other calamity of season, will be attended to, but that in the event of any *zemindar*, independent *talookdar*, or other actual proprietor of land with or on behalf of whom a settlement has been, or may be, concluded, or his or her heirs, or successors, failing in the punctual discharge of the public revenue which has been, or may be, assessed upon their lands under the abovementioned regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively, and invariably take place

No claims for remissions or suspensions to be admitted on any account.

Lands of proprietors to be invariably sold for arrears

VIII. ART. VII.—To prevent any misconstruction of the foregoing articles, the Governor General in Council thinks it necessary to make the following declarations to the *zemindars*, independent *talookdars*, and other actual proprietors of land.

Government to enact such regulations as they may think necessary for the welfare of the dependant *talookdars* and cultivators, and proprietors not to withhold the revenue on that account.

First. It being the duty of the ruling power to protect all classes of people, and more particularly those who from their situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such regulations as he may think necessary for the protection and welfare of the dependant *talookdars*, *ryots*, and other cultivators of the soil, and no *zemindar*, independent *talookdar*, or other actual proprietor of land, shall be entitled on this account to make any objection to the discharge of the fixed assessment, which they have respectively agreed to pay.

All internal duties that may be hereafter established to belong exclusively to Government.

Second. The Governor General in Council having on the 28th July 1790, directed the *sayer* collections to be abolished, a full compensation was granted to the proprietors of land, for the loss of revenue sustained by them in consequence of this abolition; and he now declares, that if he should hereafter think it proper to re-establish the *sayer* collections, or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

Jumma that may be assessed on alienated lands to belong exclusively to Government.

Third. The Governor General in Council will impose such assessment as he may deem equitable, on all lands at present alienated and paying no public revenue, which have been, or may be, proved to be held under illegal or invalid titles. The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

Police allowances in land or money received by proprietors whose *jumma* is declared fixed, resumable by Government.

Fourth. The *jumma* of those *zemindars*, independent *talookdars*, and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their *jumma*, for keeping up *thanas*, or police establishments, and also of the produce of any lands, which they may have been permitted to appropriate for the same purpose; and the Governor General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper, in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country. The Governor General in Council however declares, that the allowances, or produce of lands, which may be resumed, will be appropriated to no other purpose but that of defraying the expence of the police; and that instructions will be sent to the collectors, not to add such allowances, or the produce of such lands, to the *jumma* of the proprietors of land, but to collect the amount from them separately.

Allowances that may be so resumed not to be added to the *jumma*, but to be collected separately, and applied solely to the police.

Estates of disqualified proprietors not liable to sale for arrears of assessment accruing whilst they are deprived of the management of them.

Fifth. Nothing contained in this proclamation, shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first article of the regulations regarding disqualified landholders passed on the 15th July 1791, liable to sale for any arrears which have accrued, or may accrue, on the fixed *jumma* that has been, or may be, assessed upon their lands under the abovementioned regulations for the decennial settlement, provided that such arrears have accrued, or may accrue, during the time that they have been, or may be, dispossessed of the management of their lands, under the said regulations of the 15th July 1791. It is to be understood however, that whenever all or any of the descriptions of disqualified landholders specified in the first article of the last mentioned regulations, shall be permitted to assume, or retain, the management of their lands in consequence of the ground of their disqualification no longer existing, or of the Governor General in Council dispensing with, altering, or abolishing those regulations, the lands of such proprietors will be held responsible for the payment of the fixed *jumma*, that has been, or may be, assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management, by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first article of the regulations of the 15th July 1791, are, and will be, held answerable for any arrears that are, or may become, due from them on the fixed *jumma* which they, or any persons on their behalf, have engaged, or may engage, to pay under the abovementioned regulations for the decennial settlement.

IX.

Proprietors declared privileged to transfer their lands without the sanction of Government.

IX. ART. VIII.—That no doubt may be entertained, whether proprietors of land are entitled, under the existing regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the *zemindars*, independent *talookdars*, and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper, by sale, gift, or otherwise, their proprietary rights, in the whole, or any portion, of their respective estates, without applying to Government for its sanction to the transfer; and that all such transfers will be held valid, provided that they be conformable to the Mahomedan or the Hindoo laws, (according as the religious persuasions of the parties to each transaction, may render the validity of it determinable by the former or the latter code,) and that they be not repugnant to any regulations now in force which have been passed by the British administrations, or to any regulations that they may hereafter enact.

Provided the transfer be conformable to law, and not contrary to any existing regulation.

Rules for apportioning the fixed *jumma* on portions of estates, in the event of their being disposed of at public sale, or transferred by the proprietors, and on shares of estates divided amongst the joint proprietors upon the transfer or division being notified to the collector, or other prescribed officer, and the *jumma* so adjusted declared fixed for ever.

X. ART. IX.—From the limitation of the public demand upon the lands, the neat income, and consequently the value (independent of increase of rent obtainable by improvements) of any landed property for the assessment on which a distinct engagement has been or may be entered into between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed *jumma* assessed upon it, (which, agreeably to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred,) with the whole of its produce, allowing for the charges of management. But it is also essential, that a notification should be made of the principles upon which the fixed assessment charged upon any such estate, will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed *jumma* with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained. The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it in any of the cases above specified to be left to the proprietors, he requires, that all such transfers or divisions as may be made by the private act of the parties themselves, be notified to the collector of the revenue of the *zillah* in which the lands may be situated, or such other officer as Government may in future prescribe, in order that the fixed *jumma* assessed upon the whole estate may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the *jumma* charged thereon, may be entered upon the public registers, and that separate engagements for the payment of the *jumma* assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land. And the Governor General in Council declares, that if the parties to such transfers or divisions shall omit to notify them to the collector of the revenue of the *zillah*, or such other officer as may be hereafter prescribed for the purposes before mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed *jumma* assessed upon it, in the same manner as if no such transfer or division had ever taken place. The Governor General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this article, (which are conformable to the principles of the existing regulations,) that if any *zemindar*, independent *talookdar*, or other actual proprietor of land, shall dispose of a portion of his or her lands as a dependant *talook*, the *jumma* which may be stipulated to be paid by the dependant *talookdar*, will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed in any case to affect the rights or claims of Government, any more than if it had never taken place.

But the transfer of dependant *talooks*, not to affect the rights or claims of Government in any respect.

First.

First. In the event of the whole of the lands of a *zemindar*, independent *talookdar*, or other actual proprietor of land, with or on behalf of whom a settlement has been, or may be, concluded, under the regulations above mentioned, being exposed to public sale by the order of the Governor General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a court of justice, in two or more lots, the assessment upon each lot shall be fixed at an amount, which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce. This produce shall be ascertained in the mode that is, or may be, prescribed by the existing regulations, or such other regulations as the Governor General in Council may hereafter adopt; and the purchaser or purchasers of such lands, and his, or her, or their heirs and lawful successors, shall hold them at the *jumma* at which they may be so purchased, for ever.

Second. When a portion of the lands of a *zemindar*, independent *talookdar*, or other actual proprietor of land, with or on behalf of whom a settlement has been, or may be, concluded, under the regulations before mentioned, shall be exposed to public sale by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a court of justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce. If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount, which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce. The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing regulations, or such other regulations as the Governor General in Council may hereafter enact; and the purchaser or purchasers of such lands, and his, or her, or their heirs or successors, will be allowed to hold them at the *jumma* at which they may be so purchased for ever; and the remainder of the public *jumma*, which will consequently be payable by the former proprietor of the whole estate on account of the portion of it that may be left in his or her possession, will continue unalterable for ever.

Third. When a *zemindar*, independent *talookdar*, or other actual proprietor of land, with or on behalf of whom a settlement has been, or may be, concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift, or otherwise, the assessment upon each distinct portion of such estate so transferred, shall be fixed at an amount which shall bear the same proportion to its actual produce, as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is, or may be, prescribed in the existing regulations, or such other regulations as Government may hereafter adopt; and the person or persons to whom such lands may be transferred, and his, or her, or their heirs and lawful successors, shall hold them at the *jumma* at which they may be so transferred, for ever: and, where only a portion of such estates shall be transferred, the remainder of the public *jumma*, which will consequently be payable by the former proprietor of the whole estates on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

Fourth. Whenever a division shall be made of lands, the settlement of which has been, or may be, concluded with or on behalf of the proprietor or proprietors, and that are, or may become, the joint property of two or more persons, the assessment upon each share shall be fixed at an amount, which shall bear the same proportion to its actual produce, as the fixed *jumma* assessed upon the whole of the estate divided, may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is, or may be, prescribed by the existing regulations, or such other regulations as the Governor General in Council may hereafter adopt; and the sharers, and their heirs and lawful successors, shall hold their respective shares at the *jumma* which may be so assessed upon them for ever.

Rules for adjusting the jumma of lands held khas, or let in farm, in the event of the whole or any part of them being disposed of by public sale, or private transfer, or divided amongst the proprietors, and the jumma so adjusted declared fixed for ever.

XI. ART. X. The following rules are prescribed respecting the adjustment of the assessment on the lands of *zemindars*, independent *talookdars*, and other actual proprietors of land, whose lands are or may be held *khas* or let in farm, in the event of their being disposed of by public sale, or transferred by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

First. If the whole, or a portion, of the lands of a *zemindar*, independent *talookdar*, or other actual proprietor of land, who may not have agreed to the payment of the assessment proposed to him or her under the regulations above mentioned, and whose lands are or may be held *khas*, or let in farm, shall be exposed to public sale, in one or in two or more lots, pursuant to the decree of a court of justice, such lands, if *khas*, shall be disposed of at whatever assessment the Governor General in Council may deem equitable, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold the lands at the assessment at which they may be so purchased for ever. If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one or in two or more lots, they shall be disposed of under the following conditions. The purchaser or purchasers shall receive, during the unexpired part of the term of lease of the farmer, whatever such proprietor shall have been entitled to receive in virtue of his or her proprietary rights, on account of the lands so purchased, and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such assessment on account of the lands as Government may deem equitable. The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the *jumma* to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale; and such purchaser or purchasers, and his or her or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so purchased, for ever.

Second. If a *zemindar*, independent *talookdar*, or other actual proprietor of land, whose lands are or may be held *khas*, or let in farm, shall transfer by private sale, gift, or otherwise, the whole or a portion of his or her lands in one, or in two or more lots, the person or persons to whom the lands may be so transferred, shall be entitled to receive from Government, (if the lands are held *khas*,) or from the farmer, (if the lands are let in farm,) the *malikonnah* to which the former proprietor was entitled on account of the lands so transferred. Persons to whom such lands may be so transferred, will stand in the same predicament as the *zemindars*, independent *talookdars*, or other actual proprietors of land, mentioned in the fourth article, whose lands are held *khas*, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the beforementioned regulations for the decennial settlement, and the declarations contained in that article are to be held applicable to them.

Third. In the event of a division being made of lands that are, or may become, the joint property of two or more persons, and which are or may be held *khas* or let in farm, the proprietors of the several shares will stand in the same predicament with regard to their respective shares, as the *zemindars*, independent *talookdars*, and other actual proprietors of land specified in the fourth article, whose lands have been let in farm, or are held *khas*, in consequence of their having refused to pay the assessment required of them under the beforementioned regulations for the decennial settlement, and the declarations contained in that article are to be considered applicable to them.

A. D. 1793. REGULATION VIII.

A REGULATION *for re-enacting, with Modifications and Amendments, the Rules for the decennial Settlement of the public Revenue payable from the Lands of the Zemindars, independent Talookdars, and other actual Proprietors of Land, in Bengal, Behar, and Orissa, passed for those Provinces respectively on the* 18*th September* 1789, *the* 25*th November* 1789, *and the* 10*th February* 1790, *and subsequent dates.* —*Passed by the Governor General in Council on the* 1*st May* 1793 ; *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

THE original rules for forming a decennial settlement of the revenue to be paid from the lands in Bengal, Behar, and Orissa, passed for those provinces respectively on the 18th September 1789, 25th November 1789, and 10th February 1790, having undergone considerable alterations during the progress of the arrangement; an amended code of rules, including the original rules and the subsequent alterations, was passed on the 23d November 1791. That code is now re-enacted, with modifications and amendments, adapted to the principles of Regulations II. and III. 1793, by which the judicial powers heretofore vested in the collectors of the revenue as superintendents of the late courts of *mal adawlut* or revenue courts, are transferred to the courts of *dewanny adawlut*, or courts of civil judicature, established in the several *zillahs* and cities for the trial of all civil suits in the first instance.

Term of settlement to be for ten years, commencing with the Fussily, Willaity, and Bengal years, 1197.

II. A new settlement of the land revenue shall be concluded for a period of ten years, to commence with the Fussily, Willaity, and Bengal year 1197, for Behar, Orissa, and Bengal respectively.

Proprietors to be informed, it will be perpetual with the approbation of the Court of Directors, but not otherwise.

III. It shall be at the same time notified to the proprietors of land with whom the settlement may be concluded, that the assessment fixed by the decennial settlement, will be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance shall meet with the approbation of the Honorable Court of Directors, but not otherwise.

Settlement under certain restrictions, to be concluded with the actual proprietors of the soil.

IV. The settlement, under certain restrictions and exceptions hereafter specified, shall be concluded with the actual proprietors of the soil, of whatever denomination, whether *zemindars*, *talookdars*, or *chowdries*.

What descriptions of *talookdars* are to be considered the actual proprietors of the lands composing their *talooks*.

V. *First.* The *talookdars* to be considered the actual proprietors of the lands composing their *talooks*, are the following :

Proprietors of *talooks* obtained by purchase, or gift,

Second. Talookdars who purchased their lands by private, or at public sale, or obtained them by gift from the *zemindar*, or other actual proprietor of land to whom they now pay the revenue assessed upon their *talooks*, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land, from the *zemindar*, or *sunnuds* from the *khalsah*, making over to them his proprietary rights therein.

Or which existed before the succession of the family of the *zemindar* to whom the revenue is paid,

Third. Talookdars whose *talooks* were formed before the *zemindar*, or other actual proprietor of land to whom they now pay their revenue, or his ancestors, succeeded to the *zemindaree*.

Fourth.

Or which never formed a part of the *zemindaree*;

Fourth. *Talookdars*, the lands comprised in whose *talooks*, were never the property of the *zemindar* or other actual proprietor of the soil to whom they now pay their revenue, or his ancestors.

and persons who have succeeded to any of the above mentioned descriptions of *talooks*.

Fifth. *Talookdars* who have succeeded to *talooks* of the nature of those described in the preceding clauses, by right of purchase, gift, or inheritance, from the former proprietors of such *talooks*.

Description of proprietors of *talooks* who are to continue to pay their revenue through an actual proprietor as heretofore.

VI. The proprietors of *talooks*, however, who now pay the public revenue assessed upon their lands through a *zemindar*, or other actual proprietor of land, and whose title deeds contain a clause stipulating that their revenue is to be paid through him, shall continue to pay their revenue through such *zemindar*, or other actual proprietor of land, as heretofore.

What *talookdars* are to be considered as leaseholders only, and not entitled to be rendered independent.

VII. *Talookdars* whose *talooks* are held under writings, or *sunnuds* from *zemindars*, or other actual proprietors of lands, which do not expressly transfer the property in the soil, but only entitle the *talookdar* to possession, so long as he continues to discharge the rent, or perform the conditions stipulated therein, are considered as leaseholders only, not actual proprietors of the soil, and consequently are not entitled to be rendered independent of the *zemindar*, or other actual proprietor of land, from whom they derive their tenures, provided they now pay the rent assessed upon their *talooks* to him.

Junglebooree talookdars herein described not entitled to separation from the proprietors.

VIII. *Talookdars* also whose tenure is denominated *junglebooree*, and is of the following description, are not considered entitled to separation from the proprietors of whom they hold. The *pottahs* granted to these *talookdars*, in consideration of the grantee clearing away the jungle, and bringing the land into a productive state, give it to him andhis heirs in perpetuity, with the right of disposing of it, either by sale, or gift, exempting him from payment of revenue for a certain term, and at the expiration of it, subjecting him to a specific *assul jumma*, with all increases, *abwabs*, and *muhtotes* imposed on the *purgunnah* generally; but this for such part of the land only as the grantee brings into a state of cultivation; and the grantee is further subject to the payment of a certain specified portion of all complimentary presents and fees, which he may receive from his under tenants, exclusive of the fixed revenue. The *pottah* specifies the boundaries of the land granted, but not the quantity of it, until it is brought into cultivation.

Proprietors of *malguzaree ayma* lands herein described entitled to separation, in the same manner as the proprietors of independent *talooks*.

IX. The rules in section 5, respecting *talooks*, have also been extended to *ayma* lands liable to the payment of a fixed quit revenue, denominated *malguzaree aymas*; and agreeably to the distinctions laid down in that section, it has been ordered, that such *malguzaree ayma* tenures as are held under grants of the Mahomedan government, previous to the Company's accession to the *dewanny*, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of *talookdars*, who are proprietors of the lands composing their *talooks*. But *malguzaree ayma* tenures which may appear to have been *bonâ fide* granted for the purpose of bringing waste lands into cultivation, shall continue included in the estates to which they are now annexed, as coming within the rules in section 8, respecting *junglebooree talooks*.

What *malguzaree ayma* lands shall not be separated.

Rules pointed out for the guidance of collectors in carrying into execution the orders relative to the separation of *talookdars*.

X. The rules contained in the following section have been prescribed for the guidance of the collectors, in carrying into execution the rules relative to the separation of *talookdars*, who are the actual proprietors of the lands composing their *talooks*, and are declared entitled to separation.

To examine the title deeds of *talookdars*, and separate from the jurisdiction of the *zemindars*, &c. such as may appear to be the actual proprietors of their *talooks*.

XI. Every *talookdar* being considered as the rightful possessor of his *talook*, until a better title is established against him by due course of law, the point to be ascertained by the collectors in carrying the above mentioned orders into effect, is not whether the holders of the several *talooks* under their authority are the lawful possessors of the *talooks* held by them, but whether the nature of their tenure is such as to entitle them to separation under the rules contained in sections 5, and 9; to ascertain which, they are to call upon the *talookdars* to produce their title deeds, and, after having examined them, are to separate from the jurisdiction of the *zemindars*, or other actual proprietors of estates, those who may appear to them to be actual proprietors of the lands composing their *talooks*, as described in those sections, continuing the remainder under the *zemindars* or other actual proprietors, as heretofore. If a *talookdar* should have no title deeds to produce, the collector

tor is to make a summary enquiry into his right to separation, and, after attending to such proofs and documents as may be produced by the *talookdar* in support of his title to separation, and by the *zemindar*, or other actual proprietor, in objection thereto, is to decide, according to the best of his judgment, whether such *talookdar* be entitled to separation or not, and conclude the settlement accordingly.

How to proceed in the event of a *talukdar* having no title deeds to produce.

XII. The collectors are to acquaint the *talookdars* whom they may adjudge not to be actual proprietors of the lands composing their *talooks*, and consequently continue under the *zemindars*, or other actual proprietors, as heretofore, that, if dissatisfied with their decision, they are at liberty to sue such *zemindars* or actual proprietors of land, in the court of *dewanny adawlut* of the *zillah*, for the right of property in their *talooks*; and that in the event of their establishing such right, they will be separated from such *zemindars*, or other actual proprietors, and allowed to pay the revenue assessed upon their *talooks*, to the public treasury. They are also to acquaint the *zemindars*, or other actual proprietors, from whose estates *talooks* may be separated, and who may be dissatisfied with such separation, on the grounds of the holders of such *talooks* not being the actual proprietors of them, and consequently not entitled to separation under Sections 5 and 9, that they are liberty to sue such *talookdars* in the court of *dewanny adawlut* for the right of property in their *talooks*, and that, in the event of their establishing such right, the *talooks* will be replaced under them as heretofore. The right of property in every *talook*, in cases where it may be disputed, will thus be tried and decided upon according to law in the court of *dewanny adawlut* of the *zillah*, and either party dissatisfied with the decision of the judge, will have an appeal therefrom to the provincial court of appeal, and from the decision of that court to the Sudder Dewanny Adawlut, in cases that may be appealable to the last mentioned court.

Talookdars adjudged not to be proprietors of the soil, are at liberty, if dissatisfied, to sue the *zemindars*, &c. in the court of *dewanny adawlut*, for the right of property in their *talooks*.

Zemindars, &c. dissatisfied with the separation of *talooks* from their estates, are at liberty to sue the holders of such *talooks* in the court of *dewanny adawlut*, for the right of property in them.

Either party dissatisfied with the decision of the judge, will have an appeal to the *sudder dewanny adawlut*, agreeably to the judicial regulations.

XIII. *Talookdars*, whose *talooks* have been ordered to be separated, are not to be permitted to pay the revenue assessed upon their lands, through the *zemindars*, or other actual proprietors of estates, as heretofore.

Order for the separation of independent *talooks*, to be considered as positive.

XIV. *Talookdars*, who in consequence of the rules in Sections 5 and 9, may be separated from the *zemindars*, or other actual proprietors of estates through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the collector's treasury, except in districts, where from the number of *talooks*, or other cause, this mode would be attended with considerable inconvenience, in which case *tehsildars*, or native collectors, are to be appointed to receive the revenue of the *talooks* in such districts.

Separated *talookdars* to pay their revenue immediately into the collector's treasury, except in particular cases, in which *tehsildars* are to be appointed to receive it.

XV. *Zemindars*, or other actual proprietors of land, from whose *zemindarees*, or estates, *talooks* may be separated, shall not be appointed *tehsildars* to receive the revenue of the *talooks* so separated, but the office of *tehsildar* shall in every instance be given to some other person of character and responsibility, and the whole expence of it is to be defrayed by Government.

Proprietors from whose estates *talooks* may be separated, shall not be appointed *tehsildars*.

This office, to whom to be given, and the expence incident to it, how to be defrayed.

XVI. *Mocurrereo* leases to persons not the actual proprietors of the lands included in such leases, if granted or confirmed by the Supreme Government, or obtained previous to the Company's accession to the *dewanny*, are to be continued in force during the lives of the lessees, subject to an abatement of the fixed *jumma* for the authorised *sayer* resumed or abolished; but on their death, the settlement is to be made with the actual proprietors of the soil, agreeably to this regulation.

Rule respecting *mocurrereo* leases to persons not the proprietors of the lands included in them, if granted or confirmed by the Supreme Government, or obtained previous to the Company's accession to the *dewanny*.

XVII. *Mocurrere* grants to the actual proprietors of the soil, made or confirmed by the Supreme Government, are also to be continued in force, subject in like manner to an abatement of the fixed *jumma* on account of the resumption or abolition of the authorised *sayer*. The rules contained in this section, and section 16, are to be considered subject to the future confirmation, or revocation, of the Honourable Court of Directors.

Rules respecting *mocurrereo* grants to the proprietors of the soil made or confirmed by the Supreme Government. Rules in this and the preceding section to be considered subject to the future confirmation or revocation of the Court of Directors.

XVIII. *Mocurrereedars* holding lands of which they are not the actual proprietors, and whose *mocurreree* grants have been obtained since the Company's accession to the *dewanny*, and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil, under this regulation. In cases, however, where such *mocurreedars* have been in possession of their *mocurrereo* for a term exceeding twelve years, they are to receive during their lives, (subject to the pleasure

Rule respecting *mocurreedars* holding lands of which they are not the proprietors, granted since the Company's accession to the *dewanny*, and not sanctioned by Government.

Qualification of the preceding part of this rule but subject to the pleasure of the Court of Directors

sure of the Honourable Court of Directors,) the difference between the *jumma* at which they held the lands, and that which may be now agreed to by the actual proprietors, added to the neat produce of the authorized *sayer*, resumed or abolished

Description of *istemrardars* to be considered as *pottah talookdars*

XIX *Istemrardars*, however, who have not got possession of their lands to the exclusion, or without the consent of the actual proprietors, as the *mocurr reedars* mentioned in section 18, are supposed to have done, but hold them of the proprietors on *pottah*, or lease, are to be considered as a species of *pottah talookdars*, and the settlement is to be made with them as hereafter specified

Exceptions to the general orders for the conclusion of the decennial settlement with the actual proprietors of the soil

XX The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil, contained in section 4, include the following descriptions of persons females, (excepting those whom the Governor General in Council may judge competent to the management of their own estates,) minors, idiots, lunatics, or others rendered incapable of managing their lands by natural defects or infirmities of whatever nature, and persons, whom the Governor General in Council may deem disqualified on account of their contumacy or notorious profligacy of character, provided however, with regard to the whole of these descriptions, that they are not partners in the *zemindarees*, independent *talooks*, or other estates held by them, with others of a different description, in which case, themselves or guardians are allowed, with their partners, to engage for the settlement of their lands, and elect a joint manager, under the restrictions hereafter mentioned

Qualifications of these exceptions

Lands of proprietors included in the above exceptions to be managed by persons appointed by Government

XXI The lands of disqualified proprietors coming within the above descriptions, are to be managed for the benefit of the proprietors, by persons appointed to the trust by Government in the mode prescribed in Regulation X 1793, which also contains rules for the selection and conduct of such managers, as well as regarding the provision to be made for the support of the proprietors

Further exception with respect to proprietors of land in balance to Government and unable to pay the arrears due from them

XXII A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them, in which instances, no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm, or held *khas*, for a period of three years at the discretion of the collector

Settlement of undivided estates possessed by two or more proprietors none of whom may come within the description of disqualified landholders to be made with them jointly but their lands to be entrusted to a manager

Mode in which managers are to be appointed.

XXIII Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders specified in Section 20. the settlement is to be made with them jointly, and they are to be required to elect a serberakar or manager, who shall have the exclusive management of their lands during the continuance of his appointment The determination of the majority of the proprietors, or of the majority of those present, in the event of the absence of any, is to be binding on the remainder in the choice of a manager, and when the votes of the proprietors are equal, the election of the manager is to be determined by the greater interest of the proprietors in the property If in any case the interest also be equal, the manager is to be appointed by the Board of Revenue*

Cases in which guardians of proprietors are to vote for them in the choice of a manager

XXIV In instances, where part of the proprietors described in Section 23 may be minors, lunatics, idiots, or others having guardians, such guardians are to vote for them

Collectors to nominate managers for undivided estates when the proprietors shall neglect to do so to be confirmed by the Board of Revenue Authority vested in the manager so appointed.

Expence to be defrayed by the proprietors who are also to be responsible for the public revenue

XXV If the joint proprietors of undivided estates, should neglect to elect a serberakar on the requisition of the collector of the revenue of the zillah in which such estates may be situated, the latter is authorized to nominate a manager for the approbation of the Board of Revenue, which manager, when confirmed by them, shall have the exclusive management, as long as it may be thought advisable to continue him The expence of the manager, as well as the responsibility for the public revenue, resting nevertheless with the proprietors

Determination of the majority of the proprietors to be binding on the remainder in agreeing to the payment of undivided estates

XXVI The determination of the majority of the proprietors present, under the restrictions specified in Section 23 is also to be binding on the remainder, in agreeing, or disagreeing to the *jumma* proposed for undivided estates the shares however, if dissatisfied,

But the shares if dissatisfied may obtain a division of their lands.

may obtain a division of their lands, and a proportionate allotment of the revenue assessed thereon, but at their own expence

* Sections 23 to 26 inclusive, rescinded by section 2, Regulation XVII 1806

XXVII. When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor has his separate share in his own possession and management, or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it.

Rules respecting the settlement of land standing in the joint names of several proprietors, or of one for many, each proprietor having his separate share in his own possession.

XXVIII. In case of mortgage, if the mortgagee has obtained possession of the land, the settlement is to be made with him, and the proprietor is to be declared entitled to succeed to his engagements on recovering possession, either by the discharge of his obligations, or by the decision of a court of justice. If the mortgagee has not possession, the settlement is to be made with the proprietor in possession, and the mortgagee is in like manner to succeed to the lease, in case of possession being subsequently adjudged to him.

In what manner the settlement is to be made, in cases of lands being mortgaged.

XXIX. If after due enquiries and reference to the mofussil records, the proprietors of any land cannot be ascertained, the lands are to be held *khas pro-tempore*, and the same mode is to be adopted with regard to absentees. In both cases, an advertisement is to be issued requiring the proprietors, or absentees, to attend within a period of six months, and if they should not be forthcoming at the expiration of that period, a settlement is to be made with a farmer for ten years, allowing a preference to the *zemindar* nearest in situation, on his agreeing to the *jumma* and the terms that may be prescribed by the collector.

Rule to be observed when the proprietors of any land cannot be ascertained, and in cases of absentees.

The settlement of their lands how to be made, in the event of their not being forthcoming.

XXX. Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration, that he is nevertheless liable to the claims upon the estate, which is to be transferrable to any other person to whom the property may be subsequently adjudged.

Settlement of disputed estates to be made with the proprietor in possession.

XXXI. If a case should occur, in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the *dewanny adawlut* of the *zillah*: but if they should not agree to a manager, the lands are to be held *khas*, and the surplus produce, after discharging the revenue, is to be kept in deposit until the right of property shall be adjudged.

Mode to be observed in cases where none of the claimants shall have been previously in possession.

XXXII. Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the *dewanny adawlut*, and the settlement is to be made in the mean time for the lands in possession of the disputing parties respectively.

Rules for the settlement, in cases where disputes exist concerning the boundaries of lands.

XXXIII. The special rules for fixing the assessment of the three provinces respectively, adapted to the local circumstances of each, commence with Section 68, and the following general rules have been prescribed in addition thereto.

Rules for fixing the assessment pointed out.

XXXIV. The allowances of the *cazuies*, and *canoongoes*, heretofore paid by the landholders, as well as any public pensions, hitherto paid through the landholders, are to be added to the amount of the *jumma*, and in future paid by the collectors of the revenue of the several *zillahs*, on the part of Government, under the rules and restrictions laid down for their guidance with regard to such payments, in the resolutions passed by the Governor General in Council on the 10th June 1791, and re-enacted with modifications by Regulation XXIV. 1793.

Allowances of *cazuies* and canoongoes, and public pensions, paid by landholders, to be added to the *jumma*, and in future paid by the collectors under certain restrictions.

XXXV. The assessment is to be fixed exclusive, and independent of all duties, taxes, and other collections, known under the general denomination of *sayer*; the collections made in the *gunjes*, *hauts*, and *bazars*, situated within the limits of the town of Calcutta excepted, and excepting also the collections confirmed to the proprietors and holders of *gunjes*, *bazars*, and *hauts*, by the resolutions passed by the Governor General in Council on the 11th of June 1790. Those resolutions, with the subsequent rules enacted for the regulation of the *abkaree*, or tax on intoxicating liquors and drugs, the abolition of the other *sayer* collections resumed, and the compensations to be made to the proprietors and farmers of estates in consequence of this resumption and abolition, are re-enacted with modifications, by Regulations XXVII. and XXXIV. 1793.

The assessment to be fixed exclusive of *sayer*, with an exception to the collections, in the *gunjes*, &c. in Calcutta, and to certain other articles of collection confirmed.

XXXVI. The assessment is also to be fixed exclusive, and independent of all existing *lakheraje* lands, whether exempted from the *kheraje* (or public revenue) with or without due authority.

Assessment also to be fixed exclusive of all existing *lakheraje* lands.

The above rule not meant to include *malikanah* lands in Behar, or private lands of *zemindars* and *talookdars* in Bengal and Midnapore.

XXXVII. The above exception, however, is not meant to include the *malikanah* lands in Behar, or the *nanker*, *khomer*, *neej-joot*, and other private lands of the *zemindars* and independent *talookdars*, or other actual proprietors of land in Bengal and Midnapore, regarding which the following rules have been prescribed:

Malikanah lands in Behar to be re-annexed, and the proprietors required to engage for the whole of their estates, including these lands.

XXXVIII. Where the *zemindars*, or other actual proprietors of land, in Behar, have resigned, or have been deprived of the management of their lands, retaining possession of a tithe as *malikanah*, the latter is to be re-annexed, and the *zemindars* or other actual proprietors, are to be required to engage for the whole of their estates including the *malikanah* lands; unless such lands be held as *malikanah* under grants made or confirmed by the Governor General in Council, or the supreme authority of the country for the time being, and have been sold, or mortgaged, and given in possession to the mortgagee, in which case they are to be exempted from this rule. Grants for *malikanah* lands not made or confirmed by the supreme authority of the country, are declared invalid by the regulations passed on the 8th August 1788. If the collectors, however, should be of opinion, that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.

Nanker, *khomer*, neej-joot, and other private lands of the proprietors, in Bengal and Orissa, to be annexed to the *malguzaree* lands, and the *jumma* fixed upon the whole.

Modification of the rule.

XXXIX. The *nanker*, *khomer*, *neej-joot*, and other private lands, appropriated by the *zemindars*, independent *talookdars*, and other actual proprietors of land, in Bengal and Orissa, to the subsistence of themselves and families, shall be also annexed to the *malguzaree* lands, and the ten years *jumma* fixed upon the whole under the following modification; that such proprietors as may decline to engage for their lands, be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove to the satisfaction of the Board of Revenue, that they held them under a similar tenure, previous to the 12th August 1765, the date of the grant of the *dewanny* to the Company, and have hitherto been permitted to keep possession of them, whenever their *zemindarees* or estates have been held *khas* or let in farm, but not otherwise. In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors by Section 44.

The consolidation of the *malguzaree* and private lands to be made also in *talooks*, continued under proprietors on whom they have been hitherto dependant.

Motive of this consolidation.

XL. The above consolidation of the *malguzaree* and private lands, is also to be made in the *talooks* continued under the proprietors on whom they have hitherto been dependant; not however with a view of increasing the rents of the *talookdars*, but in order to make the whole of the lands composing their *talooks*, answerable for their proportion of the public assessment allotted thereon.

Chakeran lands to be annexed to the *malguzaree* lands, and declared responsible for the public revenue.

XLI. The *chakeran* lands, or lands held by public officers, and private servants, in lieu of wages, are also not meant to be included in the exception contained in Section 36. The whole of these lands in each province, are to be annexed to the *malguzaree* lands, and declared responsible for the public revenue assessed on the *zemindarees*, independent *talooks*, or other estates, in which they are included, in common with all other *malguzaree* lands therein.

All engagements for the *jumma* to be for *sicca* rupees, subject for the present to a provisionary clause.

Collectors to insert in their treasury accounts the rates of *batta* at which they may receive all rupees not *siccas*.

XLII. All engagements for the *jumma*, whether executed by proprietors or farmers, are to be for *sicca* rupees, and a clause is to be inserted, obliging them to pay to Government *siccas*, or the same species of rupees as they may receive from their under farmers or *ryots*, at the *bazar* rates of *batta*, until a sufficient number of *sicca* rupees can be circulated to make these the only legal tender. The collectors are to insert in their treasury accounts the rates of *batta* at which all rupees, not *siccas*, may be received by them.

Process to be observed when the landholders decline engaging for the *jumma* proposed to them.

XLIII. In the event of any proprietor declining to engage for the settlement of his lands at the *jumma* proposed to him, the collector is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue. That Board is to determine the proper assessment, after making such further enquiries as they may think necessary; and the objecting proprietor is to be required to engage for such assessment without further delay; and, in the event of his refusal, which is to be given in writing, his lands are to be let in farm, or held *khas*, as the Board of Revenue may in each instance think most expedient.

XLIV.

XLIV. Proprietors who may finally decline engaging for the *jumma* proposed to them, and whose lands may consequently be let in farm, or held *khas*, are to receive *malikanah*, (an allowance in consideration of their proprietary rights,) at the rate of ten per cent. on the *sudder jumma* of their lands, if let in farm, or, at the same rate on the neat collections from their lands, if held *khas*, viz. on the neat amount realized by Government after defraying the *malikanah*, as well as all other charges. Out of this allowance, however, a provision is to be made for such persons belonging to the families of the proprietors as may be entitled thereto.

Proprietors who may finally refuse to engage for the *jumma* required from them, are to receive *malikanah*, and in what proportion.

XLV. When the lands are let in farm, the farmer is to engage to pay the ten per cent. *malikanah* to the proprietor of the lands farmed by him, in addition to the *jumma* payable by him to Government, and to pay this *malikanah* monthly, according to the *kistebundy* fixed for the *sudder jumma*, with an exception to any cases in which it may have been otherwise stipulated with the farmers.

Rule respecting the payment of the *malikanah* when the lands are let in farm.

XLVI. The collectors are to enforce payment of the *malikanah* specified in Section 45. from the farmers, by the same process as is prescribed for enforcing payment of arrears of the public revenue, if they shall at any time neglect to pay the instalment due from them; and Government are to be considered as guarantees for the full payment of the fixed allowance to the several excluded proprietors.

How the collectors are to enforce payment of the *malikanah*.

Government guarantees for full payment of the *malikanah* of proprietors.

XLVII. In the event of the lands being held *khas*, on the refusal of the proprietor to engage for the settlement of them, the *malikanah*, calculated as above specified, is to be paid monthly from the treasuries of the collectors, and it shall be paid entirely in money, instead of half in cash, and half in paper, as formerly.

How to be paid when the lands are held *khas*.

XLVIII. The settlement having been concluded with the *zemindars*, independent *talookdars*, and other actual proprietors of land, they are to enter into engagements with the several dependant *talookdars*, continued under them respectively, and consequently paying revenue through them, for the same period as the term of their own engagements with Government, provided the *talookdars* will agree to such revenue, progressive or otherwise, as the *zemindar* or other actual proprietor of land may be entitled to demand from them; and the several *zemindars*, or actual proprietors of land to whom this rule may be applicable, are required to deliver to the collector, within three months after the conclusion of the settlement with them, a record of the engagements entered into between them and the *talookdars* dependant on them, specifying their names and *talooks*, and the *jumma* payable by each.

Settlement to be made by proprietors with the *talookdars* continued under them, and in what manner.

XLIX. It is to be understood, however, that *istemrardars (mocurreresdars)* of the nature of those described in Section 18, who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government, or by the *zemindar* or other actual proprietor of land, should he engage for his own lands. With regard to such *istemrardars* also, as have not held their lands at a fixed rent for so long a period, if the *zemindar* or other actual proprietor of land, has bound himself by the deed which he may have executed, not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.

Restrictions regarding the assessment of a certain description of *istemrardars* who are to be considered as leaseholders.

L. This last restriction imposed on the *zemindar*, or other actual proprietor of land, in Section 49, is not to be considered to preclude the officer of Government or farmer, in the event of the *zemindaree* being held *khas*, or let in farm, from assessing such *istemrardars*, according to the general rate of the district.

To what the last restriction imposed on actual proprietors of land in the preceding section is not to extend.

LI. The following rules are prescribed to prevent undue exactions from the dependant *talookdars*.

Further rules to prevent undue exactions from the *talookdars*.

First. No *zemindar* or other actual proprietor of land, shall demand an increase from the *talookdars* dependant on him, although he should himself be subject to the payment of an increase of *jumma* to Government, except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the *talookdar* holds his tenure; or that the *talookdar*, by receiving abatements from his *jumma*, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Proprietors not to demand an increase from such *talookdars*, excepting in the cases herein specified.

Penalty for proprietors making exactions from *talookdars*.

Second. If in any instance it be proved, that a *zemindar* or other actual proprietor of land, exacts more from a *talookdar* than he has a right to, the court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit to the party injured.

Actual proprietors to let their remaining lands under the prescribed restrictions in whatever manner they may think proper.

LII. The *zemindar* or other actual proprietor of land, is to let the remaining lands of his *zemindaree* or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with under farmers, shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land, or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this section, are the following.

Restrictions alluded to in Section 52.

LIII. No person contracting with a *zemindar*, independent *talookdar*, or other actual proprietor, or employed by him in the management of the collections, shall be authorized to take charge of the lands or collections, without an *amilnamah*, or written commission, signed by such *zemindar*, independent *talookdar*, or other actual proprietor.

Process to be observed to prevent imposition on the *ryots* under the denomination of *abwab*, *muhtote*, &c.

LIV. The impositions upon the *ryots*, under the denomination of *abwab*, *muhtote*, and other appellations, from their number and uncertainty, having become intricate to adjust, and a source of oppression to the *ryots*; all proprietors of land and dependant *talookdars*, shall revise the same, in concert with the *ryots*, and consolidate the whole with the *asul*, into one specific sum. In large *zemindarees*, or estates, the proprietors are to commence this simplification of the rents of their *ryots*, in the purgunnahs where the impositions are most numerous, and to proceed in it gradually, till completed, but so, that it be effected for the whole of their lands, by the end of the Bengal year 1198, in the Bengal districts, and of the Fussily and Wallaity year 1198, in the Behar and Orissa districts, these being the periods fixed for the delivery of *pottahs* as hereafter specified.

Proprietors, and farmers of land, prohibited imposing any new *abwab* or *muhtote* on the *ryots*, and penalty in case of disobedience.

LV. No actual proprietor of land, or dependent *talookdar*, or farmer of land, of whatever description, shall impose any new *abwab* or *muhtote* upon the *ryots*, under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered, that new *abwab* or *muhtote* have been imposed, the person imposing the same, shall be liable to this penalty, for the entire period of such impositions.

Variations of *pottah* according to articles of produce admitted under certain restrictions.

LVI. It is expected, that in time, the proprietors of land, dependant *talookdars*, and farmers of land, and the *ryots*, will find it for their mutual advantage to enter into agreements in every instance for a specific sum, for a certain quantity of land, leaving it to the option of the latter to cultivate whatever species of produce may appear to them likely to yield the largest profit; where, however, it is the established custom to vary the *pottah* for lands according to the articles produced thereon, and while the actual proprietors of land, dependant *talookdars*, or farmers of land, and *ryots* in such places, shall prefer an adherence to this custom, the engagements entered into between them, are to specify the quantity of land, species of produce, rate of rent, and amount thereof, with the term of the lease, and a stipulation, that in the event of the species of produce being changed, a new engagement shall be executed for the remaining term of the first lease, or for a longer period, if agreed on; and in the event of any new species being cultivated, a new engagement, with the like specification and clause, is to be executed accordingly.

What the *pottahs* to be delivered to the *ryots* are to contain.

LVII. *First.* The rents to be paid by the *ryots*, by whatever rule or custom they may be regulated, shall be specifically stated in the *pottah*; which, in every possible case, shall contain the exact sum to be paid by them.

Rule where the rate only can be specified, and for payments in kind.

Second. In cases where the rate only can be specified, such as where the rents are adjusted upon a measurement of the lands after cultivation, or on a survey of the crop, or where they are made payable in kind, the rate and terms of payment, and proportion of the crop to be delivered, with every condition, shall be clearly specified.

Forms of pottahs *to be registered in the* gillah *court, and copies to be de-*

LVIII. Every* zemindar, *independent* talookdar, *or other actual proprietor of land, and every dependant* talookdar, *shall prepare the form of a* pottah *or* pottahs, *conformably to the*

* This section is rescinded by Section 3, Regulation V. 1812.

rules

rules above prescribed, and adapted to the circumstances of his estate or talook; *and, after obtaining the collector's approbation of it, (which approbation shall be signified by such officer superscribing the form with his name and official appellation,) he is to register a copy of the form or forms, in the* dewanny adawlut *of the* zillah, *and to deposit a copy in each of the principal* cutcherees *in his estate or* talook. *Every* ryot *shall be entitled to receive corresponding* pottahs *on application; and no* pottahs *of any other form shall be hereafter held valid.*

posited in each of the principal cutcherees.

LIX. A *ryot*, when his rent has been ascertained and settled, may demand a *pottah* from the actual proprietor of land, dependant *talookdar*, or farmer, of whom he holds his lands, or from the person acting for him; and any refusal to deliver the *pottahs*, upon being proved in the court of *dewanny adawlut* of the *zillah*, shall be punished by the court, by a fine proportioned to the expence and trouble of the *ryot* in consequence of such refusal. Actual proprietors of land, dependant *talookdars*, and farmers, are also required to cause a *pottah* for the adjusted rent to be prepared and tendered to the *ryot*; either granting the same themselves, or intrusting their agents to grant the same. No farmer, however, without special permission from the proprietor of the lands, or (if the lands form part of a dependant *talook*) the dependant *talookdar*, shall grant a *pottah* extending beyond the period of his own lease; nor shall any agent grant a *pottah* without authority from the proprietor, or dependant *talookdar*, or the manager of disqualified proprietors.

Ryots may demand pottahs of proprietors of land, and farmers, who are also required to grant them.

Penalty in case of refusal.

Restrictions on farmers and agents in granting *pottahs*.

LX. *First.* All leases to under farmers and *ryots* made previous to the conclusion of the settlement, and not contrary to any regulation, are to remain in force until the period of their expiration, unless proved to have been obtained by collusion, or from persons not authorised to grant them.

All existing leases to under farmers and *ryots* to remain in force until the period of their expiration.

Exception to the rule.

Second. No actual proprietor of land or farmer, or persons acting under their authority, shall cancel the *pottahs* of the *khodkasht ryots*, except upon proof that they have been obtained by collusion; or that the rents paid by them within the last three years, have been reduced below the rate of the *nirkbundee* of the *purgunnah*; or that they have obtained collusive deductions; or upon a general measurement of the *purgunnah* for the purpose of equalizing and correcting the assessment. The rule contained in this clause is not to be considered applicable to Behar.

No proprietor of land, or dependant *talookdar*, or farmer of land, shall cancel the *pottahs* of *khodkasht ryots* except in certain specified cases.

LXI. The proprietors of estates, and the dependant *talookdars*, and farmers of land in Bengal, are allowed until the end of the Bengal year 1198, and those in Behar and Orissa until the end of the Fussily and Wallaity year 1198, to prepare and deliver *pottahs* to the *ryots*, in conformity to the preceding rules,* *but after the expiration of the year* 1198, *no engagements for rent, contrary to those ordered, are to be held valid*; and in the event of any claims being preferred by proprietors of estates, or dependant *talookdars*, farmers, or *ryots*, on engagements, wherein the consolidation of the *asul, abwab*, &c. shall appear not to have been made, they are to be nonsuited with costs.

Time allowed to proprietors of land and dependant *talookdars* and farmers of land to prepare and deliver *pottahs* to the *ryots*.

Claims on engagements contrary to those ordered, how to be considered and decided &c.

LXII†. *First. The annual revenue to be paid to Government, from the estates of the proprietors of land with whom a settlement has been or may be concluded, having been declared fixed for ever; and courts of justice having been established, with powers to protect them against all demands exceeding that fixed revenue, whether made by the officers of Government or other persons, or by the authority of Government itself; and on the other hand, the grounds on which deductions and abatements were heretofore occasionally obtained by proprietors of estates when their* jumma *was liable to frequent variation, no longer existing; neither their rights, nor the value of their property, can be affected in future by the real produce of their estates being known. The rules therefore hereafter prescribed regarding* putwarees, *which are framed solely to facilitate the decision of suits in the courts of judicature, between proprietors and farmers of lands and persons paying rent or revenue to them, and to guard against any diminution of the fixed revenue of Government, or injustice to individuals, by enabling the collectors to procure the necessary information and accounts for allotting the public* jumma *upon estates that may be divided, agreeably to the principles prescribed in Regulation* I. 1793, *can be objected*

Rules regarding putwarees.

* This part of the sentence rescinded by Section 3, Regulation V. 1812.
† The whole of this section rescinded by Section 3, Regulation XII. 1817.

to

to lay those proprietors only, who may have it in contemplation, in the event of the division or transfer of a portion of their estates, to deprive Government of a part of the fixed revenue, or defraud some of the partners in their estates, by obtaining a disproportionate allotment of the public assessment on the several shares; or to oppress the persons paying rent or revenue to them with impunity, by withholding from the courts of justice, the documents necessary to enable them to afford redress to the complainants. It being essential to the security of the public revenue, as well as of private rights and property, and at the same time consistent with the ancient usages of the country, and the declarations in the proclamation announcing the public assessment on the lands fixed for ever, that Government should have the means of counteracting such unjustifiable views, the following rules have been adopted:

Proprietors to appoint a putwaree *to keep the accounts of each village.*

Second. *Every proprietor of land, who may not have established a* putwaree *in each village in his or her estate, to keep the accounts of the* ryots, *as required by the original rules for the decennial settlement of the three provinces, shall immediately appoint a* putwaree *in each village for that purpose. All proprietors of estates are to deposit in the* dewanny adawlut *of the* zillah, *the collector's* cutcherry, *and the principal* cutcherry *in each* mohul *or* purgunnah, *a list of the* putwarees *in their respective estates, and the names of the villages, the accounts of which they may be severally appointed to keep. The proprietors are to notify every three months to the court and the collector, all vacancies that may occur, and the names of the persons whom they may appoint to fill them. The Board of Revenue are empowered to authorize any proprietor to reduce the number of* putwarees *in such proportion as they may think proper, in cases in which it may appear to them unnecessary to entertain a separate* putwaree *for each village.*

Board of revenue may authorise proprietors to reduce the number of putwarees.

Putwarees to produce all accounts required by the courts of judicature,

Third. *The* putwarees *in every estate, are to produce all accounts relating to the lands, produce, collections, and charges, of the village or villages, the accounts of which may be kept by them respectively, and to furnish every information and explanation that may be required regarding them, whenever they may be required by any court of justice to adjust any suit that may be depending before the court between the proprietor or farmer of the estate, and the* ryots, *or any persons paying rent or revenue to them, or any other suit.*

and also for the allotment of the public revenue in the cases herein specified, when required by the collector.

Fourth. *The* putwarees *in each estate, shall also produce the accounts specified in the preceding clause, and furnish every explanation and information that may be required respecting them, for the allotment of the public revenue, agreeably to the principles laid down in Regulation* I. 1793, *in the event of the whole or any portion of the estates being directed to be disposed of at public sale, or being transferred by any private act of the proprietor or proprietors, or of the estate being ordered to be divided pursuant to a decree of a court of judicature, or, where it may be a joint estate, in consequence of the request of one or more of the proprietors. But no collector is to require a* putwaree *to attend him, and produce his accounts, but for the purposes above mentioned, or in any other cases, in which they may be expressly empowered to require them, by any regulation printed and published in the manner directed in Regulation* XLI. 1793. *If any collector shall require the* putwaree *of any village or villages to attend him, and produce the village accounts, for purposes, or in cases in which he may not be authorized to inspect them, the court of* dewanny adawlut, *upon the circumstances being represented to it by the proprietor of the estate, is empowered to make an order to prohibit the collector requiring the accounts, and in the event of his repeating the requisition, to adjudge him to pay a fine to the proprietor of the estate of such sum as to the court may appear proper, and to levy the fine in the mode in which the courts are empowered to levy fines from the collectors in the suits described in Section* 33, *Regulation* XIV. 1793.

Cases in which the collectors are prohibited requiring accounts from putwarees, *and,*

penalty for breach of the prohibition.

How the collectors and the courts are to compel the attendance of putwarees.

Fifth. *When a collector shall require the attendance of a* putwaree *for the examination of his accounts, either before him, or any officer whom he may depute for the purpose, he is to serve such* putwaree *with a written notice under his official signature, and the seal of the* zillah, *to attend with the accounts required, which are to be particularized in the notice. If he shall omit to attend with the accounts by the limited time, and shall not show good cause to the collector for the omission, the collector is authorized to represent the circumstances through the* vakeel *of Government to the court of* dewanny adawlut *of the* zillah,

zillah, *the judge of which, provided there shall appear to him sufficient cause for so doing, may order such* putwaree *to be committed to close custody until he produces the accounts. The courts are to observe the same process with* putwarees *who may omit to attend with their accounts when required, for the adjustment of any matter or dispute depending before the courts.*

Sixth. Putwarees *shall be required to swear to the truth of the accounts they may produce when deemed necessary, and in the event of the collector having occasion to proceed in person, or to depute an officer to examine any village accounts on the spot, the judge, upon application being made to him for that purpose by the collector through the* vakeel *of government, may grant to him, or to such officer, a commission to swear the several* putwarees *whose accounts are to be inspected, inserting in the commission the name of each* putwaree *to be sworn. If the collector shall have occasion to examine the accounts of a* putwaree *at the station at which the court may be established, he is to cause him to be sworn before the court, if he shall judge it necessary to require him to make oath to the truth of his accounts.*

Putwarees may be required to swear to the truth of their accounts.

Seventh. *If a* putwaree *shall have sworn to the truth of any account that he may have been required to produce before a court of justice, for the purpose of deciding any matter before the court, and the accounts shall afterwards be found to have been fabricated, or altered, or not to be the true accounts, the judge of the court is empowered to commit him to be tried for perjury before the court of circuit.*

Putwarees liable to be prosecuted criminally for swearing to false accounts in a court of judicature.

Eighth. *If a* putwaree *shall have been sworn before a judge, or before a collector, or the officer of a collector, to any accounts that he may have been required to produce before the collector, or his officer, in a case in which the collector may have been empowered to require him to produce such accounts, and the accounts shall afterwards appear to have been fabricated or altered, or not to be the true accounts, the collector is empowered to employ the* vakeel *of Government to prosecute such* putwaree *for perjury. In the cases specified in this and the preceding clause, if it shall be proved to the satisfaction of the court that the accounts were fabricated, altered, or changed, by the orders, or with the knowledge or connivance of the proprietor or farmer of the estate, the court shall impose such fine upon the proprietor or farmer so offending, as may appear to it proper, upon a consideration of the case, and the situation and circumstances of the offender.*

Or before a collector.

Punishment for proprietors or farmers concerned in falsifying the accounts.

Ninth. *Upon the accounts of any village being ordered to be produced, if it shall be found that no* putwaree *has been appointed to keep the accounts of the* ryots, *in conformity to the rules prescribed in Clause Second, the court, provided it be a case in which the requisition of the accounts may be authorized, shall fine the proprietor for the first offence, in such sum as it may judge proper, upon a consideration of his or her situation and circumstances, and the nature of the case; and for the second offence, twice the amount of the fine for the first; and for the third and every subsequent offence, double the amount of the fine for the preceding one. If the accounts shall have been required by the collector, he is to order the* vakeel *of government to sue the proprietor on the part of Government under this section, for a breach of the rule in Clause Second.*

How proprietors omitting to appoint putwarees *are to be proceeded against.*

Tenth. *The rules contained in this section, are hereby declared equally applicable to dependant* talooks, *as to estates paying revenue immediately to Government.*

Above rules regarding putwarees *applicable also to dependant* talooks.

LXIII. *First.* Every proprietor of land, dependant *talookdar*, or farmer of land, of whatever description, and their agents of every gradation, receiving rents or revenues from dependant *talookdars*, under-farmers, *ryots*, or others, are to give receipts for all sums received by them; and a receipt in full on the complete discharge of every obligation. Any person to whom a receipt may be refused, on his establishing the same in the *dewanny adawlut* of the *zillah*, shall be entitled to damages from the party who received his rent or revenue, and refused the receipt, equal to double the amount paid by him.

Proprietors of land, dependant *talookdars*, farmers, and their agents, to give receipts for all sums received as rent or revenue, under the penalty herein specified.

Second. In case any village, or lands, should be affected by inundation, or other calamity, causing the *ryots* to desert, it shall not be lawful for any proprietor of land, dependant *talookdar*, or farmer of land of whatever description, or their agents, to demand the rents of the absconded *ryots* from those who may remain.

Rents of absconded *ryots* not to be demanded from those who remain.

Rules for adjusting the *mufussil kistbundies*.

LXIV. The proprietors of land, dependant *talookdars*, and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their under renters and *ryots*, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.

Proprietors and dependant *talookdars*, restricted from entering into engagements contrary to this regulation.

LXV. No proprietor of land, or dependant *talookdar*, shall contract any engagement, with any under-farmer, or authorize any act, contrary to the letter and meaning of this regulation.

Landholders and farmers of land of every description, and their dependants, prohibited interfering in any matters coming within the cognizance of the civil or criminal courts of judicature, or the magistrates.

LXVI. *Zemindars*, independent *talookdars*, and other actual proprietors of land, dependant *talookdars*, farmers of land holding farms immediately of Government, and all persons farming lands of the abovementioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependants, and *ryots*, are prohibited from taking cognizance of, or interfering in matters or causes coming within the jurisdiction of the courts of civil judicature, or the courts of circuit, or the magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the court of judicature in which they may be prosecuted for the act, may deem it proper to impose and award.

Restrictions in the *quabooleats* not repealed by any regulation, to be considered in force.

LXVII. *First.* Such of the restrictions on actual proprietors of land, and farmers who hold their farms immediately of Government, as are set forth in their respective *quabooleats*, and are not repealed by any regulation printed and published in the manner directed in Regulation XLI. 1793, are to be considered in full force.

Proprietors of land entitled to borrow money, or sell their estates of their own authority, from the date of the settlement being concluded with them.

Bond fide transfers of estates or *talooks* made subsequent to the 8th June 1787, to be held valid.

Second. Actual proprietors of land, are to be considered to have been entitled between the period of the conclusion of the settlement with them, and the 22d March 1793, the date of the proclamation declaring the decennial settlement perpetual inserted in Regulation I. 1793, to borrow money on the credit of their lands, and to sell or otherwise dispose of them, subject to the rules and restrictions existing when the transaction took place; and all *bonâ fide* transfers of *zemindarees*, or other estates, or *talooks*, made by any actual proprietor of land, or dependant *talookdar*, subsequent to the 8th June 1787, are to be deemed valid, although they shall have taken place without the sanction of the Board of Revenue required to be obtained by the regulations passed on that date; and all actual proprietors of land and dependant *talookdars* are to be held to have been at liberty from the 29th October 1790, to borrow money without the sanction of the Board of Revenue.

Rules regarding the recovery of arrears of rent or revenue from *ryots*, or under-farmers, contained in Regulation XVII. 1793.

Third. In the amended code of the rules for the decennial settlement passed on the 23d November 1791, it was declared, that in all instances in which *ryots* should give security for the performance of their engagements, and such security should be accepted by the landholders or farmers, it should not be lawful for the two latter to attach the crop of the former, unless the security should have absconded, and other good security not have been tendered in consequence. This rule was annulled by the regulations passed by the Governor General in Council, on the 20th July 1792, which have been re-enacted with alterations and amendments by Regulation XVII. 1793.

Proprietors and farmers of land deprived of police jurisdiction.

Fourth. In the original rules for the decennial settlement, the landholders were declared responsible for the peace of their districts, and bound to act agreeably to such regulations on that head, as might afterwards be enacted. This rule was superseded by the regulations passed by the Governor General in Council, on the 7th December 1792, which have been re-enacted with alterations and amendments by Regulation XXII. 1793.

Collector to attend to the spirit of the rules in this regulation, where they may not be applicable to particular districts.

Restrictions under which this rule is to be applied.

Fifth. In the original rules above mentioned, it was also directed, that if in any instance the regulations should appear inapplicable to the circumstances of any particular district, the collector should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary. This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the collector to exercise any judicial authority.

In what cases the settlement was to be concluded, under the regulations which existed prior to the original rules for the decennial settlement.

Sixth. It was further ordered in the original rules before mentioned, that if from want of sufficient materials or information, or on account of other impediments, the collectors should be unable to complete the settlement of all the *purgunnahs* under their charge, agreeably to the prescribed plan, within the year 1197 of the era current in the three provinces

vinces respectively, the settlement was to be made for one year only, according to the principles laid down in the regulations of the 25th April 1788, for the settlement of 1196, the year preceding the first year of the decennial settlement.

BENGAL SPECIAL ORDERS.

What is to be considered as the standard in fixing the assessment.

LXVIII. In fixing the amount of the assessment, the *jumma* of the preceding year, compared with the accounts and information supplied by the collectors, and the recommendation of the Board of Revenue founded thereon, is to be the standard, under the following considerations.

Cases wherein the Board of Revenue may postpone the decennial settlement.

LXIX. If the Board of Revenue shall have reason to believe, that the accounts furnished of any particular district or districts are materially defective; that more accurate information of their actual produce is necessary; and that it can be procured without having recourse to *hustaboods* and measurements, which have been prohibited, the decennial settlement of such districts is to be postponed.

No abatement from the *jumma* of the preceding year is to be allowed without special sanction.

LXX. No abatement from the *jumma* of the preceding year is to be allowed, without the special sanction of the Governor General in Council.

LXXI. Any occasional diminution of the *jumma* which it may be necessary to allow on account of casualties of season, is to be restored by a *russud*, or progressive increase; but no *russud* shall be established to extend beyond the third year of the settlement, except in the separated *talooks*, and other petty *mehals*, in which the Board of Revenue may allow a further extension of the *russud*, if it shall appear to them expedient.

Settlements to be made as far as possible in one neat sum, free from all charges of the nature herein specified.

LXXII. The settlement is to be made, as far as possible, in one neat sum, free from any charges of *moshaira*, *zemindaree amlah*, *poolbundy*, *cutcherry* charges, or others of a similar nature; it being intended, that all charges incidental to the receipt of the rents of the lands, and independent of the allowances of the officers of Government, and expences attending the collection of the public revenue, shall be defrayed by the proprietors from the produce of their lands.

Separate allowances to families of proprietors to be abolished, and provided for by the proprietors.

LXXIII. In every possible case, all separate allowances to the families and connections of the proprietors of land, are to be abolished, and the provision for their maintenance is to devolve upon the proprietors.

Established *zemindaree* charges which are to be paid by the collectors, except in certain cases.

LXXIV. With respect to any of the existing established *zemindaree* charges, such as pensions, charitable or other allowances, which it may be thought proper to continue, they shall be paid by the collectors, and the proprietors and farmers of land are to have no concern in them, unless, for special reasons of convenience, it should be deemed more expedient in any instance to entrust the proprietors or farmers of land with the disbursement of them.

Exceptions to the application of the standard of assessment mentioned in Section 68.

LXXV. The standard for fixing the future assessment mentioned in Section 68, viz. The *jumma* of the preceding year, compared with the accounts and information supplied by the collectors, and the recommendation of the Board of Revenue thereon, cannot be applied however to the separated *talooks*, which have not heretofore paid any *jumma* immediately to Government; nor is it to be understood to be applicable to any instances where the actual produce of the lands may have been ascertained. In all such instances, and in all separated *talooks*, the *jumma* of which shall clearly appear to have been fixed below the general rate of assessment of the *purgunnah* wherein they are situated, the assessment is to be regulated so as to leave to the proprietors a provision for themselves and families, equal to about ten per cent. on the amount of their contributions to Government, including the produce of their *nankar*, or other private lands, to be annexed to the *malgusaree* lands, as directed in Section 39; and the *talookdars* whose *jumma* may be raised by virtue of this rule, are to be informed, that they may sue in the *dewanny adawlut*, the proprietor who fixed their *jumma*, if they shall think themselves aggrieved by their payments being enhanced, contrary to the terms of a grant which the *zemindars* had no authority to bestow on them.

Separated *talookdars* whose *jumma* may be raised under this section, at liberty to sue the *zemindars* who fixed their *jumma*.

Exceptions to the preceding rule in favour of separated *talookdars* and others

LXXVI. From this rule however are to be excepted, all separated *talooks*, as well as all lands heretofore paying revenue immediately to Government, which may have been held at

who have paid a fixed *jumma* for the last twelve years.

at a fixed *jumma* during the last twelve years; and the decennial settlement is to be concluded with the proprietors of such *talooks* and lands, at the *jumma* hitherto paid by them, subject to such deduction as may be found equitable on account of the *sayer*, resumed or abolished.

Circumstances which may render a larger provision than ten per cent. necessary will be taken into consideration.

LXXVII. The estimated provision for the landholders and their families, where the assessment may be fixed on the ascertained produce of their lands, is stated generally at ten per cent. on the *jumma* payable by them. But if, owing to any peculiar circumstances, a larger provision should be deemed necessary, particularly in *zemindarees*, or independent *talooks* yielding a small revenue, the Governor General in Council will take the same into consideration.

Points to be considered in carrying into execution the principles contained in Section 68.

LXXVIII. In carrying into execution the principles contained in section 68, it will be necessary to consider, whether the several charges noticed, have been heretofore defrayed by the actual proprietors of land, independent of their assessment, or by Government, with a view to determine whether a deduction is to be allowed from their future *jumma* to provide for them, or otherwise.

Cases in which a deduction is or is not to be allowed for the charges herein alluded to.

LXXIX. In cases where the charges alluded to in the preceding section have been defrayed by the actual proprietors of land, independently of their *jumma* to Government, they will not of course be entitled to any deduction on account of them; but where they have been heretofore paid by Government, the *jumma* must suffer a proportionate diminution, unless there be sufficient funds for the discharge of them in addition to the former *jumma*. With respect to the *moshaira* in particular, it is to be observed, that where the lands have been let in farm, but are now left with the proprietor, the latter may be presumed to receive an equivalent for his former allowance in the profits of the farmer, which will revert to him.

Rule respecting *moshaira*.

Mofussil charges to be considered in calculating the assessment when the gross assets shall have been ascertained.

Statement required from the collectors.

LXXX. Where the *jumma* may be fixed on the ascertained gross assets, the *mofussil* charges of every denomination, whether *dehatee*, *purgunnatee*, or others, must further be considered in calculating the proper assessment; and the collectors are to transmit a statement of the estimated gross assets, with an adjustment of the revenue thereto, conformably to the above rules.

Every circumstance influencing the regulation of the *jumma* to be recorded.

LXXXI. Every circumstance, influencing the regulation of the *jumma*, is to be minutely recorded, to prevent any claims hereafter on the part of the proprietors or farmers for lowering the amount.

BEHAR SPECIAL ORDERS.

Principles to be observed in fixing the *jumma* to be paid by the proprietors.

LXXXII. The *jumma* which each actual proprietor of land is to pay, is to be fixed by the collector on fair and equitable principles, with the reserve of the approbation of the Board of Revenue, to whom he is to report the grounds of his decision on the *jumma*. If he should deem it eligible, he may call upon the actual proprietors of land to deliver in proposals for the settlement of their lands; but his judgment is, in the first instance, to determine the amount of the assessment.

Modes to be attended to in ascertaining the assets for the purpose of fixing the *jumma*.

General rule to be adopted in all practicable instances.

LXXXIII. The collectors, in fixing the *jumma*, are to attend to the modes which have hitherto prevailed in ascertaining the assets, and fixing the *jumma* between the proprietors of small estates, and the principal proprietor or farmer, adopting in all practicable instances, the following general rule: That the average product of the land in common years (assuming three or four for the calculation) be taken as the basis of the settlement, and from this, deductions be made equal to the *malikanah* and *khurcha*, leaving the remainder the *jumma* of Government. The Governor General in Council relies on the accuracy of the collectors in the application of this rule; and they are authorized, in the event of great uncertainty, to measure the lands. This uncertainty, however, is to be reported to the Board of Revenue; and the measurement is not to be undertaken, but on the clearest grounds of the necessity of it.

Measurement authorized in certain cases.

Exception to the above rules.

LXXXIV. From the above rules are to be excepted all lands heretofore paying revenue immediately to Government, which may have been held at a fixed *jumma* during the last twelve years; and the decennial settlement is to be concluded with the actual proprietors of such lands, at the *jumma* hitherto paid by them, subject to such deduction, as may be found equitable, on account of the *sayer*, resumed or abolished.

LXXXV. No abatement from the sudder *jumma* of 1196, is to be confirmed, without the special sanction of the Governor General in Council.

No abatement from the *sudder jumma* of 1196 to be confirmed without special sanction.

LXXXVI. The sudder *kisthundy* is to be so regulated, as to afford the proprietors of land all possible convenience in the discharge of their revenue, with due regard to the security of Government.

Principle to be observed in regulating the *sudder kisthundy*.

LXXXVII. The collectors are to proceed with due caution and information in the execution of these fundamental resolutions; and it is expected they will be able, when called upon, to furnish clear and satisfactory explanations of their proceedings, particularly on the amount of the assessment.

Collectors to proceed with caution in the execution of these rules, and are expected to be able to furnish clear explanations of their proceedings.

MIDNAPORE SPECIAL ORDERS.

LXXXVIII. The collector is authorized to make alterations in the *jumma* of 1196, when from good information, and his own experience, it may appear necessary to render the *jumma* of the respective *zemindars*, independent *talookdars*, and other actual proprietors of land, more equal and proportioned to the resources of their lands.

In what cases the collector is authorized to make alterations in the *jumma* of the past year.

LXXXIX. In order to ascertain the necessity of granting any remissions upon the *jumma* of 1196, the collector is to examine the *wassilaut* and *ahrajaut*, or the gross receipts and expenditures, comparing the one with the other, and checking the latter when exorbitant; and he is particularly to ascertain, to his full satisfaction, those instances in which the *zemindars*, independent *talookdars*, or other actual proprietors of land, have been under the necessity of selling their lands and effects to make good the amount of their stipulations.

Mode to be adopted to ascertain the necessity of granting remissions upon the last year's *jumma*.

XC. To obviate and correct, as far as possible, any unnecessary or studied delays in the *zemindars* and *talookdars* in giving the accounts required, he is authorised to impose a moderate fine upon such of them as may be guilty of delays or evasions; reporting the cases as they may occur to the Board of Revenue.

Fine may be imposed on proprietors guilty of delays in giving the accounts, which may be required in conformity to the preceding sections. These cases to be reported to the Board of Revenue.

XCI. In cases of great doubt and uncertainty, the collector is authorized to measure the lands, or make such *mofuseil* investigations into the produce of them, as he may deem necessary for ascertaining the truth.

Measures authorised in cases of great doubt or uncertainty.

XCII. The collector is authorized, upon the grounds of the information obtained in the mode above pointed out, to grant remissions upon the *jumma* of 1196, the Governor General in Council expecting that no remission will be allowed but upon satisfactory explanations of the necessity of it; but the settlement is to be made, under an express reserve and limitation, that it be approved and confirmed by the Governor General in Council, and a declaration to this effect is to be made to the proprietors.

Collector may grant remissions upon the *jumma* of the last year, but the settlement to be made subject to the confirmation of the Governor General in Council.

XCIII. The estimated allowance for casual deficiency upon the gross *jumma* is to be reduced from rupees 1,30,477, to the sum of rupees 50,546, which is three per cent. upon the gross *jumma* of 16,84,868. 5. 1, after deducting from it the article of *batta*.

Estimated allowance for casual deficiency to be reduced, and in what proportion.

XCIV. The allowance for religious expenditures, being enormous, shall also be reduced. The Governor General in Council does not mean to prescribe the exact amount of the reduction, but conceives that the sum now allowed, will admit of a diminution of at least 35,000 rupees. The collector, in fixing the assessment, is to regulate the estimate of the amount of it by this consideration. These charges being highest in the *purgunnahs* of Cossejurah, Shahpore, Midnapore, and Mynachoura, the reduction ought to be greatest in them.

Allowance for religious expenditures to be reduced, and rules for this reduction.

XCV. The charges of purchasing provisions for the battalion when in the town of Midnapore, and of firewood and grass, when travelling, if such have been actually incurred by the proprietors of land, are to be discontinued, and no such charge shall be incurred by them in future.

Charges for purchasing provisions, &c. for the battalion, to be discontinued.

XCVI. The settlement is to be made, as far as possible, in one neat sum, free from any charges of *moshaira*, *zemindaree amlah*, *poolbundy*, *cutcherry*, or other charges of a similar nature; it being intended that all charges incidental to the receipt of the rents of the lands,

Settlement to be made, as far as possible, in one neat sum, free of all charges of the nature herein specified.

lands, independent of the allowances of the officers of Government, and expences attending the collection of the public revenue, shall be defrayed by the proprietors from the produce of their lands.

Established *zemindaree* charges are to be paid by collectors, except in certain cases.

XCVII. With respect to any of the existing established *zemindaree* charges, such as pensions, charitable allowances, or others, which it may be thought proper to continue, they are to be paid by the collectors, and the proprietors are to have no concern in them, unless for special reasons of convenience, it should be deemed more expedient, in any instance, to intrust the landholders with the disbursement of them.

Cases in which a *russud* may be allowed, and for what period.

XCVIII. Any occasional diminution of the *jumma*, which it may be necessary to allow on account of casualties of season, is to be restored by a *russud*, or progressive increase; but no *russud* shall be established to extend beyond the third year of the settlement, except in the separated *talooks* and other petty *mehals*, in which the Board of Revenue may allow a further extension of the *russud*, if it shall appear to them expedient.

Every circumstance influencing the regulation of the *jumma* to be recorded.

XCIX. Every circumstance, influencing the regulation of the *jumma*, must be minutely recorded, to prevent any claims hereafter on the part of the proprietors for lowering the amount of it.

SALT DISTRICTS SPECIAL ORDERS.

In what respects the above regulations are not to be considered applicable to such of the salt districts as have been held *khas*.

C. The rules contained in the preceding sections of this regulation, as far as they relate to the term of the settlement, and the formation of it with the actual proprietors of land, are not to be considered as applicable to such of the salt districts as have been held *khas* in the past years, to facilitate the conduct of the business of the salt manufacture. These are to continue *khas* as heretofore, and the assessment of them is to be from year to year as hitherto, until the Governor General in Council shall think it proper to pass a regulation to the contrary.

Pottahs, however, have been ordered to be prepared and delivered to the *ryots*, conformably to the rules prescribed for Midnapore.

CI. The collectors of the revenue in the districts alluded to in the preceding section, have been ordered to prepare and deliver *pottahs* to the *ryots*, conformably to the rules prescribed in this regulation, and within the period limited for the delivery of them in Midnapore.

A. D. 1793. REGULATION XI.

A REGULATION *for removing certain Restrictions to the Operation of the Hindoo and Mahommedan Laws, with regard to the Inheritance of landed Property, subject to the Payment of Revenue to Government.*—PASSED *by the Governor General in Council, on the* 1*st May* 1793; *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

A CUSTOM, originating in considerations of financial convenience, was established in these provinces under the native administrations, according to which, some of the most extensive *zemindarees* are not liable to division. Upon the death of the proprietor of one of these estates, it devolves entire to the eldest son, or next heir of the deceased, to the exclusion of all other sons or relations. This custom is repugnant both to the Hindoo and Mahommedan laws, which annex to primogeniture no exclusive right of succession to landed property, and consequently subversive of the rights of those individuals, who would be entitled to a share of the estates in question, were the established laws of inheritance allowed to operate with regard to them, as well as all other estates. It likewise tends to prevent the general improvement of the country, from the proprietors of these large estates not having the means, or being unable to bestow the attention, requisite for bringing into cultivation the extensive tracts of waste land comprised in them. For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the rules prescribed for apportioning the amount of it on the several shares of any estates which may be divided, obviate the objections and inconveniencies that might have arisen from such divisions, when the public demand was liable to annual or frequent variation; the Governor General in Council has enacted the following rules.

After the 1st July 1794, landed property to descend according to the Mahommedan or Hindoo law, unless the last proprietor shall have otherwise disposed of it, in a manner sanctioned by those laws.

II. After the first of July 1794, corresponding with the 20th Assar 1201 Bengal era; the 17th Assar 1201 Fussily; 20th Assar 1201 Willaity; 17th Assar 1851 Sumbut; and the 2d Zehigeh 1208 Higeree; if any *zemindar*, independent *talookdar*, or other actual proprietor of land, shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who, by the Mahommedan or Hindoo law, (according as the parties may be of the former or latter persuasion,) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Two or more persons succeeding to an estate, to be at liberty to hold it as a joint undivided estate;

III. If any *zemindar*, independent *talookdar*, or other actual proprietor of land, shall die subsequent to the period specified in Section 2, without a will, or without having declared by a writing, or verbally, to whom, and in what manner, his or her landed property is to devolve, after his or her demise, and shall leave two or more heirs, who, by the Mahommedan or Hindoo law, (according as the parties may be of the former or latter persuasion,) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in that section, such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate. If one or more or all of the sharers

or one or more or all of the sharers allowed to have separate possession of his or their shares;
or two or more of the sharers permitted to hold their shares as a joint undivided estate.

shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in Regulation XXV. 1793, and such sharer or sharers, shall have the separate possession of such share or shares accordingly. If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

Manager to be appointed to shares held in joint property.
Shares held separate how to be assessed.

IV. It is to be understood, that if any two or more sharers shall keep their shares united, under the option granted to them in Section 3, a manager for their joint estate is to be appointed, under the rules contained in Sections 23, 24, 25, 26, Regulation VIII. 1793; and that if any one or more of such sharers, shall apply to have the separate possession of his or their share or shares, the proportion of the public *jumma* charged upon the whole estate which is to be assessed upon such share or shares, is to be adjusted according to the rules prescribed in Section 10, Regulation I. 1793. If the estate is held *khas*, or let in farm, the provisions contained in Section 11, Regulation I. 1793, regarding estates so circumstanced which may be divided, will be applicable to it.

This regulation not to be in force until the 1st July 1794, and then not to operate retrospectively.

V. Nothing contained in this regulation is to be construed to entitle any person to a share of an estate, which may be now held entire by any individual, or that may devolve entire to any individual prior to the 1st July 1794, in exclusion of the other heirs of the last proprietor, under the custom for the future abolition of which this regulation is enacted.

Nor to prevent persons transferring their property in the manner and to whom they may think proper, provided the transfer be not repugnant to the Hindoo or Mahommedan law, or the regulations of the Governor General in Council.

VI. Nor to prohibit any actual proprietor of land bequeathing, or transferring, by will, or by a declaration in writing, or verbally, either prior or subsequent to the 1st July 1794, his or her landed estate entire to his or her eldest son, or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper, provided that the bequest or transfer be not repugnant to any regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindoo or Mahommedan law; and that the bequest, or transfer, whether made by a will, or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner, as those laws and regulations respectively do, or may require.

A. D. 1793. REGULATION XLIV.

A REGULATION *for prohibiting the fixing the Jumma of dependant Talooks, or granting Leases or Pottahs for a Term exceeding ten Years; and, in Cases of Lands being disposed of at public Sale for the Discharge of Arrears of the public Revenue, for rendering null and void all Engagements (with certain exceptions) subsisting between the defaulting Proprietor and his dependant Talookdars, Under-farmers, and Ryots, for the Payment of Rent or Revenue on Account of the Lands so sold.*—PASSED *by the Governor General in Council, on the 1st May 1793; corresponding with the 21st Bysaak 1200 Bengal era; the 6th Bysaak 1200 Fusily; the 21st Bysaak 1200, Willaity; the 6th Bysaak 1850 Sumbut; and the 19th Ramzaan 1207 Higeree.*

Preamble.

THE public demand upon the estates of the proprietors of lands with whom a settlement has been or may be concluded under the original regulations for the decennial settlement, having been declared fixed for ever, it is to be apprehended that many proprietors, either from improvidence, ignorance, or with a view to raise money, or from other causes or motives, may be induced to dispose of dependant *talooks* to be held at a reduced *jumma*; or fix the *jumma* of such dependant *talooks* as now exist in their respective estates at an under rate; or let lands in farm, or grant *pottahs* for the cultivation of land at a reduced rent for a long term, or in perpetuity. Such engagements, if held valid, would leave it in the power of weak, improvident, or ill-disposed proprietors, to render their property of little or no value to their heirs; promote vice and injustice; occasion a permanent diminution of the resources of Government arising from the lands, in the event of the rent or revenue reserved by such proprietors being insufficient for the discharge of the amount of the public demand upon their estates; be an abuse of the great and lasting benefit which has been conferred upon the landholders by the possession of their lands being secured to them in perpetuity at a fixed assessment; and moreover be repugnant to the ancient and established usages of the country, according to which the dues of Government from the lands (which consist of a certain proportion of the annual produce of every *beegah* of land demandable according to the local custom in money or kind, unless Government has transferred its right to such proportion to individuals for a term or in perpetuity, or fixed the public demand upon the whole estate of a proprietor of land, leaving him to appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the public, so long as he continues to discharge the latter) are unalienable without its express sanction. It is at the same time essentially that proprietors of land should have a discretionary power to fix the revenue payable by their dependant *talookdars*, and to grant leases, or fix the rents of their lands for a term sufficient to induce their dependant *talookdars*, under-farmers, and *ryots*, to extend and improve the cultivation of their lands, and that such engagements should be held inviolable in all cases except where they may interfere with, or affect in any shape the primary and indefeasible rights of Government. Upon the above grounds, and as the proprietors of land, previous to the decennial settlement being declared perpetual, were not entitled to enter into any engagements with their dependant *talookdars*, under-farmers, or *ryots* for a period ex-

tending beyond the term of their own engagements with the public; the Governor General in Council has enacted as follows.

Jumma of dependant talooks, not to be fixed, nor farms or pottahs granted, for a term exceeding ten years.

II*. No zemindars, independent talookdars, or other actual proprietors of land, nor any persons on their behalf, shall dispose of a dependant talook to be held at the same or at any jumma, or fix at any amount the jumma of an existing dependant talook for a term exceeding ten years, nor let any lands in farm, nor grant pottahs to ryots or other persons for the cultivation of lands, for a term exceeding ten years. Nor shall it be lawful for any zemindar, independent talookdar, or other actual proprietor of land who may have entered into an engagement with any dependant talookdar, fixing the jumma of his talook for a term not exceeding ten years, or let any lands in farm, or granted pottahs for the cultivation of lands for a term not exceeding ten years, to renew such engagement, lease, or pottah, at any period before the expiration of it, excepting in the last year, at any time during which it shall be lawful for the parties to renew such engagement, lease, or pottah, upon the same or any other terms for a period not exceeding ten years, calculating from the expiration of the year in which such renewal may take place. All evasions of the prohibitions contained in this section, by entering into two separate engagements, leases or pottahs, at the same time; dating an engagement, lease, or pottah, subsequent to the period at which it may have been actually executed; or by any other device, shall be considered as an infringement of them; and every engagement fixing the jumma of a dependant talookdar, and every lease or pottah which has been or may be concluded or granted in opposition to such prohibitions, is declared null and void.

Engagements for ten years or less not renewable at any period during the term of them, except in the last year.

All evasions of this rule null and void.

All engagements, leases, and pottahs, which have been or may be granted repugnant to this section, declared void.

Existing engagements between proprietors and their dependant talookdars, under-farmers, and ryots, if conformable to this regulation, not to be affected by divisions of the estate made pursuant to judicial decrees, or the request of the joint proprietors.

III†. Where a division of a joint estate shall be made at the request of the proprietors, or pursuant to the decree of a court of justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares, agreeably to the principles prescribed in Section 10, Regulation I. 1793, without regard to any engagements that may subsist between the proprietors and their dependant talookdars, (excepting the dependant talookdars described in Section 7,) under-farmers, or ryots. But the sharers shall not demand from the dependant talookdars, under-farmers, or ryots, in their respective shares, any sum beyond the amount specified in the engagement, lease, or pottah, which may have been entered into between them and the proprietors jointly previous to the division of the estate, provided that such engagement, lease, or pottah, be not repugnant to the rules prescribed in Section 2, and such dependant talookdars, under-farmers, or ryots, shall duly perform their part of it; but it shall remain in full force (excepting in the event of the lands being disposed of at public sale for the discharge of arrears of the public assessment) until the term of it shall have expired.

Engagements above-mentioned not to be affected by the transfer of the lands by public sale, (except for arrears of revenue,) or by any private act of the proprietors.

IV. If the whole or a portion of any estate shall be transferred by public sale, (excepting it be so disposed of for the discharge of arrears of the public revenue,) or by private sale, gift, or otherwise; or devolve to any person upon the death of the former proprietor, according to the Hindoo or Mahomedan law of inheritance, the person or persons to whom the lands shall be so transferred or may so devolve, shall not demand from the dependant talookdars, under-farmers, or ryots in the lands transferred, any sum beyond the amount specified in the lease, pottah, or other engagement, for the payment of rent or revenue which may have been entered into between them and the former proprietor previous to the transfer, or devolution, provided that such engagement be not repugnant to the rules prescribed in Section 2, and that such dependant talookdars, farmers, or ryots, duly perform their part of it, but it shall remain in full force until the term of it shall have expired.

When lands are sold to make good arrears of public revenue, all engagements subsisting between the proprietors and their dependant talookdars, farmers, and ryots, on account of such lands to be null and void.

V. Whenever the whole or a portion of the lands of any zemindar, independant talookdar, or other actual proprietor of land shall be disposed of at public sale for the discharge of arrears of the public assessment, all engagements which such proprietor shall have contracted with dependant talookdars whose talooks may be situated in the lands sold, as also all leases to under-farmers, and pottahs to ryots, for the cultivation of the whole or any part of such lands, (with the exception of the engagements, pottahs, and leases, specified in Sections

* Rescinded by Sect. 2, Regulation V. 1812; but this and the two following sections re-enacted for Cuttack and the Western Provinces by Regulation XIV. 1812.

† Rescinded by clause 1, Section 3, Regulation XVIII. 1812.

7 and 8,) shall stand cancelled from the day of sale, and the purchaser or purchasers of the lands shall be at liberty to collect from such dependant *talookdars*, and from the *ryots* or cultivators of the lands let in farm, and the lands not farmed, whatever the former proprietor would have been entitled to demand according to the established usages and rates of the *pergunnah* or district in which such lands may be situated, had the engagements so cancelled never existed. Exception to the rule.

VI. Nothing contained in this regulation shall be construed to prohibit any *zemindar*, independent *talookdar*, or other actual proprietor of land, selling, giving, or otherwise disposing of any part of his lands as a dependant *talook*. This regulation not to prohibit proprietors from disposing of dependant *talooks*.

VII. Nor to authorize the assessment of any increase upon the lands of such dependant *talookdars* as were exempted from any increase of assessment at the forming of the decennial settlement in virtue of the prohibition contained in clause first, Section 51, Regulation VIII. 1793. The revenue payable by such dependant *talookdars* is declared fixed for ever, and their lands are accordingly to be rated at such fixed assessment in all divisions of the estate in which their *talooks* are included. Nor to affect the *jumma* of the *talookdars*, whose *jumma* is declared unalterable by Section 51, Regulation VIII. 1793.

VIII. Nor to prohibit actual proprietors of land granting without the sanction of Government or its officers, to any person, not being a British subject or a European, a lease or *pottah* for ground for any term of years, or in perpetuity, for the erection of dwelling houses or buildings for carrying on manufactures, or for gardens, or other purposes, and for offices, for such houses or buildings. Nor to prohibit grants or leases for any term for the purposes herein specified, except to British subjects and Europeans.

A. D. 1794. REGULATION II.

A REGULATION *for postponing the Operation of Section* 61, *Regulation* VIII. 1793, *in the Zillah of Boglepore, to the End of Kautic* 1201 *Bengal Era.*—PASSED *by the Governor General in Council, on the* 14*th March* 1794; *corresponding with the* 3*d Chyte* 1200 *Bengal era*; *the* 28*th Phaugun* 1201 *Russily*; *the* 3*d Chyte* 1201 *Willaity*; *the* 28*th Phaugun* 1850 *Sumbut*; *and the* 11*th Shabaan* 1208 *Higeree.*

Preamble.

REPRESENTATIONS having been made to the Governor General in Council, that the proprietors and farmers of land, and the dependant *talookdars* in the *zillah* of Boglepore, have not been able to complete the delivery of *pottahs* to their *ryots* in conformity to the rules contained in Regulation VIII. 1793, and that it will be necessary to allow them a further period for that purpose, the following rule has been enacted.

Section 61. of Regulation VIII. 1793, not to be in force in the *zillah* of Boglepore until the end of Kautic 1201 Bengal era.

II. The proprietors and farmers of land, and dependant *talookdars* in the *zillah* of Boglepore, are allowed until the end of Kautic 1201 Bengal era, to complete the delivery of *pottahs* to their *ryots*, in conformity to the rules prescribed in Regulation VIII. 1793, and the rule contained in Section 61. of that regulation, which directs that after the expiration of the year 1196 of the eras current in the several provinces, no engagements for rent contrary to those ordered in that regulation, be held valid; and that in the event of any claims being preferred by proprietors of estates, or dependant *talookdars*, farmers, or *ryots*, on engagements wherein the consolidation of the *assul*, *abwab*, &c. shall appear not to have been made, they are to be non-suited with costs; shall not be considered to be, or to have been, in force, in the *zillah* of Boglepore, until the 1st of Aughun 1201 Bengal era.

A. D. 1794. REGULATION IV.

A REGULATION *for exempting the Part of the Zillah of Ramgur included in the Soobah of Behar, from the Operation of the Rules in Regulation VIII.* 1793, *regarding the Appointment of Putwarees, and the Delivery of Pottahs to the Ryots; and for postponing the Operation of Section* 61, *Regulation VIII.* 1793, *in the Zillahs of Rajeshahye, Purneah, and the Zemindaree of Nuddea; and for providing for Cases in which Ryots may omit or refuse to take out the prescribed Pottahs when tendered to them; and for determining any Disputes that may arise between the Proprietors and Farmers of Land regarding the Rates of Pottahs that are to be granted pursuant to Regulation VIII.* 1793, *or the Rates at which Pottahs expiring or becoming cancelled under Regulation XLIV.* 1793, *are to be renewed.*—PASSED *by the Governor General in Council, on the* 27*th March* 1794; *corresponding with the* 16*th Chyte* 1200 *Bengal era; the* 11*th Chyte* 1201 *Fussily; the* 16*th Chyte* 1201 *Willaity; the* 11*th Chyte* 1851 *Sumbut; and the* 24*th Shabaan* 1208 *Higeree.*

Preamble.

THE proprietors and farmers of land in the portion of the *zillah* of Ramgur included in the *soobah* of Behar, having represented the impracticability of conforming to the regulations for granting *pottahs*, from the body of the *ryots* in that part of the country being unable to read or write, and being accustomed to cultivate the lands under verbal agreements and terms entirely dissimilar to those which prevail in other parts of the provinces; and having also stated the heavy expence to which they would be subjected, were they to be compelled to appoint *putwarees* to keep the accounts of the villages under the rules prescribed in Section 62 Regulation VIII. 1793, owing to the small number of the villages, their distance from each other, and the inconsiderable revenue, which, from the inland situation, and the mountainous and uncultivated state of the country, is collected from them; and the proprietors and farmers of land in the *zillah* of Purneah, and the proprietor of the *zemindaree* of Nuddea, having represented that a further time will be required to enable them to complete the delivery of *pottahs* to the *ryots*; and it having appeared that *ryots* frequently omit or refuse to take out *pottahs*, although the persons from whom they are entitled to demand them offer to grant them in the form and on the terms prescribed; and it being essential to the protection of the *ryots*, and the future prosperity of the country, that rules should be adopted for determining disputes that may arise between the *ryots*, and proprietors and farmers of land, or dependant *talookdars*, regarding the rates of the *pottahs* required to be granted by Regulation VIII. 1793, or the rates at which *pottahs* that may expire or become cancelled under Regulation XLIV. 1793, are to be renewed; the Governor General in Council has enacted the following rules.

Behar portion of the Ramgur *zillah* exempted from the rules regarding *pottahs*.

II. The rules contained in Sections 54, 56, 57, 58, 59, and 61, Regulation VIII. 1793, are not to be considered applicable to that part of the *zillah* of Ramgur which is included in the *soobah* of Behar.

Qualification of Section 62, Regulation VIII. 1793, regarding the districts above mentioned.

III*. *Clause second, Section 62, Regulation VIII. 1793, is declared not to extend to the districts alluded to in the preceding section, but the* gomastahs *or officers whom the proprietors or farmers of land, or the under-farmers or* ryots *in those districts may entertain, for keeping such written or other village accounts as are kept, shall be bound to produce such accounts in the cases in which the courts of judicature, or the collectors, are empowered by the abovementioned or any other regulation to require them; and such officers, as well as their constituents, are to be considered liable to all the rules in that section (the rules in clause ninth excepted) in the same manner as the proprietors, dependant* talookdars, *farmers, and* putwarees, *in other districts.*

Further period allowed for distributing *pottahs* in the *zillah* of Purneah, and in the *zemindaree* of Nuddea.

IV. The proprietors and farmers of land, and the dependant *talookdars* in Purneah, are allowed until the expiration of the year 1200 Bengal era, and the proprietor of the *zemindaree* of Nuddea, until the expiration of the year 1201 of the same era, to complete the delivery of *pottahs* to their respective *ryots*, in conformity to the rules prescribed in Regulation VIII. 1793, and the rule contained in Section 61, of that regulation, which directs that after the expiration of the year 1198 of the eras current in the different provinces, "no engagements for rent contrary to those ordered in that regulation shall be held valid, and that in the event of any claims being preferred by proprietors of estates, or dependant *talookdars*, farmers, or *ryots*, on engagements wherein the consolidation of the *assul, abwab*, &c. shall appear not to have been made, they are to be nonsuited with costs," shall not be considered to be or to have been in force in the beforementioned *zillah* and *zemindaree* respectively, until the expiration of the periods above specified.

Rules for cases in which *ryots* omit or refuse to receive the prescribed *pottahs*.

V. The *ryots* in the different parts of the country frequently omitting or refusing to take out or receive *pottahs*, although the persons from whom they are entitled to demand them, are ready to grant them in the form and on the terms prescribed by the regulations, it is declared, that if a proprietor or farmer of land, or a dependant *talookdar*, after the approbation of the collector to the form of the *pottah* or *pottahs* for the lands in his estate or farm shall have been obtained, as prescribed in Section 58, Regulation VIII. 1793, shall fix up in the principal *cutcherree* or *cutcherrees* of his estate or farm, a notification in writing under his seal and signature, specifying that *pottahs* according to the form approved, and at the established rates, will be immediately granted to all *ryots* who may apply for them, and stating where and when and by whom the *pottahs* will be delivered, the notification shall be considered as a legal tender of a *pottah*, and the proprietor of land, the farmer, or the dependant *talookdar* shall be deemed to have complied with the orders in Section 59, Regulation VIII. 1793, and the persons so tendering *pottahs* shall be entitled to recover the rents due to them from such *ryots*, either by the process of distraint laid down in Regulation XVII. 1793, or by suit in the *dewanny adawlut*.

Rules for determining disputes regarding the rates of pottahs to be granted under Regulation VIII. 1793.

VI†. *The approbation of the collector required to be obtained to* pottahs *by Section* 58, *Regulation VIII.* 1793, *is to be considered to extend to the form only.* If a dispute shall arise between the *ryots* and the persons from whom they may be entitled to demand *pottahs* regarding the rates of the *pottahs*, (whether the rent be payable in money or kind,) it shall be determined in the *dewanny adawlut* of the *zillah* in which the lands may be situated, according to the rates established in the *pergunnah* for lands of the same description and quality as those respecting which the dispute may arise.

Rule in the preceding Section applied to the renewal of *pottahs* that may expire or become cancelled under Regulation XLIV. 1793.

VII. The rules in the preceding section are to be considered applicable not only to the *pottahs* which the *ryots* are entitled to demand in the first instance under Regulation VIII. 1793, but also to the renewal of *pottahs* which may expire or become cancelled under Regulation XLIV. 1793. And to remove all doubt regarding the rates at which the *ryots* shall be entitled to have such *pottahs* renewed, it is declared, that no proprietor or farmer of land, or any other person, shall require *ryots*, whose *pottahs* may expire or become cancelled under the last mentioned regulation, to take out new *pottahs* at higher rates than the established rates of the *pergunnah* for lands of the same quality and description, but that *ryots* shall be entitled to have such *pottahs* renewed at the established rates, upon making application for that purpose to the person by whom their *pottahs* are to be granted, in the same manner as they are entitled to demand *pottahs* in the first instance, by Regulation VIII. 1793.

* Rescinded by Section 2, Regulation XII. 1817.

† Rescinded, with other stipulations in Section 5. of this regulation, by Section 3, Regulation V. 1812. *quod vide.*

A. D. 1795. REGULATION I.

A REGULATION *for fixing in Perpetuity the Revenue assessed on the Lands in the Province of Benares; for the more general Restoration of the ancient Zemindars; and for extending to the Province of Benares the Rules prescribed in Regulation XLI.* 1793.—PASSED *by the Governor General in Council, on the* 27*th March*, 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

THE Governor General in Council having determined, with the concurrence of the Raja of Benares, to introduce into that province, as far as local circumstances will admit, the same system of interior administration as has been established in the provinces of Bengal, Behar, and Orissa, and the limitation of the annual revenue payable from the lands, forming an essential part of that system, as stated in the preamble to Regulation II. 1793, the following rules have been enacted.

The origin and progress of the assessment of the land revenue in the province of Benares.

II. On the expiration of the year 1195 Fussily, the Governor General in Council instructed the resident to make the settlement of the revenue for the ensuing year 1196 under his own immediate control. The resident accordingly completed the settlement, by granting leases for the term of one year to certain *aumils*, and for five years to others, by which they bound themselves to pay a specific *jumma* or assessment. But the Governor General in Council being desirous of extending to the province of Benares from the beginning of the year 1197, as far as circumstances might admit, the principles of the decennial settlement directed to be formed in the provinces of Bengal, Behar, and Orissa, those principles were accordingly introduced in the districts of which the *aumils*, in the preceding year, had obtained leases for five years, by their consenting to the resident's issuing *pottahs* or leases under their and his joint seals and signatures, for the remaining four years of the term of their own engagements, to all the *talookdars*, and to the village *zemindars*, and farmers, by which it was stipulated that they should pay a certain fixed assessment, the amount of which should be received by the *aumils*, and accounted for by them to Government; and in the districts, the leases of which had been granted for one year only, and had consequently expired, by the issuing of *pottahs* to the *talookdars*, and the village *zemindars*, and farmers, under the signature of the resident and the raja, fixing the revenue to be in like manner paid by them through the *aumils* for the term of ten years. The particulars of these arrangements were detailed in the reports on the said settlements for one year, and for four, and ten years, made to the Governor General in Council by the resident on the 26th of April, the 30th of November, and the 26th of December 1789, and the 25th November 1790, and in the papers and accounts therein referred to; and on a consideration of them, the Governor General in Council, on the 11th February 1791, approved of the said quartennial and decennial settlements, with the *talookdars*, village *zemindars*, and farmers, and ordered, "that the four years *pottahs* be confirmed for the ensuing six, so as to reduce the whole to a ten years settlement, and that assurances be given to the *pottah*-holders, that as long as they continue to pay their revenue stipulated in the last year of the increase as specified in their several

several *pottahs*, they shall not be liable to any further demand during their lives." This order has been repeatedly notified to the parties whom it concerned, who with the exception of the *pottah*-holders in a few *pergunnahs*, and of certain individual *zemindars*, and farmers, in others, have by the performance of the conditions required of them, become entitled to hold their lands at a fixed assessment during their lives as specified in the said order.

Revenue assessed on the lands included in *pottahs*, and the conditions of which have been performed, fixed in perpetuity.

The Governor General in Council has now further resolved, that the revenue stipulated to be paid on account of the lands included in the quartennial and decennial *pottahs*, the conditions of which have been performed, whether held by *zemindars* or farmers, shall be fixed in perpetuity, and that the person or persons now holding, or who may hereafter become entitled under the regulations to succeed to, such *pottahs*, shall not be liable to any additional payment beyond the highest annual *jumma* specified in such *pottahs*. That this resolution may be rendered more immediately and generally known, the resident is to notify it to the parties interested by a proclamation to the following effect.

Proclamation.

III. *First.* "On the 11th February 1791, the Governor General in Council signified his approbation and confirmation of the quartennial and decennial settlements, formed in the Fussily year 1197, (1789/90,) throughout the four *sircars* comprized in the province of Benares; and directed in respect to the *pottahs* for four years, that the amount of the *jumma* payable thereby in the fourth year, should be continued for the next six years, so as to place the quartennial *pottahs* on the same footing as the *pottahs* granted for ten years. The Governor General in Council now declares, that the *jumma* payable according to the quartennial and decennial *pottahs* shall remain fixed for ever, so that no sum exceeding the amount specified as the highest annual *jumma* payable according to the said *pottahs*, shall ever be required of those *pottahdars* or holders of *pottahs*, who have hitherto paid up their revenue, and observed all the other conditions specified in their *pottahs*, nor of those who may hereafter become entitled to hold or succeed to such *pottahs*, so long as they shall continue to discharge the amount, and to perform the conditions, therein stipulated.

Revenue assessed on the lands agreeably to the *pottahs* granted under the rules for the quartennial and decennial settlements, declared fixed in perpetuity.

Second. The above declarations are made with the following reservations.

Reservations under which the above declarations are made.

Third. The holders of the *pottahs* are to be considered as bound to conform to all regulations regarding them, the preservation of the rights of the *putteedars*, or sharers in estates, the *ryots*, or the administration of justice, which have been or may be passed by the Governor General in Council, and printed and published in the manner prescribed in Regulation XLI. 1793.

Rule regarding the succession to *zemindarees*.

Fourth. The succession to *zemindarees* is to take place according to the established laws, rules, and customs of the country, as provided for in the regulations passed, or which may be enacted, for the province of Benares, and printed and published in the manner prescribed in Regulation XLI. 1793.

Cases in which a *zemindar* dispossessed before the 1st July 1775, shall be restored to his estate on the avoidance of the *pottah* which may have been granted for it to a farmer.

Conditions under which such restoration is to take place.

Fifth. In the event of the death of a farmer, holding a *pottah* for lands the *zemindar* of which was dispossessed previous to the 1st July 1775, the date of the cession of the province of Benares to the Company, or of the *pottah* of any such farmer becoming otherwise void, it has been determined, with the concurrence of the Raja of Benares, that such *zemindar*, or his heir or heirs, shall be restored to the estate, provided he or they shall agree to pay the fixed *jumma* assessed on the lands, agreeably to such *pottah*, and to conform to all regulations for the collection of the revenue, the administration of justice, or other matters, which may be printed and published in the manner prescribed in Regulation XLI. 1793. In such case, the estate shall be made over to him or them, in preference to its being leased to a new farmer, or to the heir of the last *pottah*-holder.

Cases in which *zemindars* who have had possession of their estates since the 1st July 1775, but which may have been leased to farmers, may recover possession from such farmers.

Sixth. According to the well known rule prevailing in the province, those *zemindars* who have had possession of their estates since the 1st of July 1775, but who were nevertheless excluded at the forming of the permanent settlement, may recover possession of their estates from the farmers who may hold *pottahs* for, and be in the actual management of them, by proving their intermediate possession in the court of *dewanny adawlut*. The courts of *dewanny adawlut* are accordingly to decree the restoration of any such *zemindar* so claiming, on proof being made by him of such intermediate possession; but every such decree is to provide for such *zemindars* previously indemnifying the farmer for the loss which he may

prove to the satisfaction of the court, to have sustained in consequence of his having held the lands under the *pottah* of Government, and the court is accordingly to enquire into and decide upon such loss, and to cause the amount to be made good to the farmer, before the *zemindar* is reinstated."

IV. The rules contained in Regulation XLI. 1793, entitled, "A regulation for forming into a regular code, all regulations that may be enacted for the internal government of the British territories in Bengal," are hereby declared to extend to the province of Benares; and that no doubt may be entertained what regulations so enacted may be meant to extend to that province, or otherwise, it is hereby declared, that no such regulation that has been or may be passed previous to, on, or after this date, shall be considered to extend, either wholly or in part, to the province of Benares, unless the title to the regulation, or the regulation itself, or some other regulation, shall declare the whole or a part of it, to extend to that province.

Regulation XLI. 1793, extended to Benares.

A. D. 1795. REGULATION II.

A REGULATION *for re-enacting with Modifications and Amendments, the Rules regarding the temporary and permanent Settlements of the Revenue, in the Province of Benares.*—PASSED *by the Governor General in Council, on the 27th March, 1795; corresponding with the 16th Chyte 1201 Bengal era; the 22d Chyte 1202 Fussily; the 16th Chyte 1202 Willaity; the 22d Chyte 1852 Sumbut; and the 5th Ramzaan 1209 Higeree.*

Preamble.

PREVIOUS to the year 1781, the resident stationed at Benares on the part of the British Government, was not empowered to interfere in any respect in the settlement or collection of the revenue of the *zemindaree*. On the accession of Raja Mahipnarain in 1781, the administration of the revenue was committed to the charge of *naibs* acting on his behalf, and subject in some degree to the control of the resident. In the year 1787, the resident himself was entrusted with the superintendence of the formation of the settlement, and the collection of the revenue. The successive measures that have been adopted from the beginning of the Fussily year 1195, which commenced in September 1787, regarding the settlement and collection of the revenue of the province, are hereby enacted into a regulation.

Engagements of the *aumils* in 1195.

II. At the recommendation of the resident, a new form of *coboolеat* was taken by the raja from the *aumils*, (then the farmers of the revenue,) on the conclusion of the settlement which he entered into with them for the Fussily year. In this *coboolеat* it was stipulated, that the *aumils* should pay to the raja the *jumma* for which they had severally engaged, according to the *tushkhees* or account particulars of the revenue funds in their respective *aumildarees*, including *nuzeranna*, and the Government's moiety of the *bhuraj*, and *russoom khawanah*, and exclusive of the articles of *mujrah*, *maafy mamooly*, and the *kharije jumma*, which consisted principally of lands exempted from the payment of revenue, and partly of pensions, and charitable, and other allowances, charged on the public revenue. This *jumma* was to be paid agreeably to the *kisthundy* or instalments for regulating the periods of the payments of the *aumils*, which then generally extended from the beginning to the end of the year; and the *aumils* further agreed, that on proof of their making any undue exactions beyond the *tushkhees* or funds assigned to them, they should be liable to pay a fine of three times the amount to Government.

Penalty for undue exactions.

Provisions for remedying the abuses in the system of collecting the public revenue.

III. *First.* What a view to provide against sundry abuses and irregularities in the system of realizing the public revenue, the resident, on the 25th June 1788, desired the raja to cause a new form of *pottah* to be established, and issued to the *ryots*, specifying the denomination and length of the rod by which the *beegy* lands (lands, of the produce of which, Government, or the person having the collection of its dues, is entitled to a certain proportion, the value of which, estimated at the current market price, is paid in money by the cultivator of the land,) were to be measured, in case such measurement should be demanded by either party on the arrival of the period when the produce of the crops of the *ryots* is estimated by the mode termed *kunkoot*; and as in many places where the revenue was thus paid on such estimations of the harvests, disputes occurred between the *ryot* and the *aumil*,

Measuring rods.

Valuation of crops.

as to the value in money at which the crop was to be appreciated, it was provided that twice in the year, or for each harvest, the valuation of the crops should be settled for each *pergunnah* separately, by the authority of Government, and a notification thereof issued; the rates to be paid for the grain or crops in the *khereef*, to be fixed in the month of Maug, and those of the *rebby*-harvest, in Jeyte, according to the actual market prices then current in the several parts and divisions of the country. The above mode of estimating the produce, and appreciating the value of the crops, is accordingly in future to constitute the rule for ascertaining the collections to be made from the *betay* lands, and for adjusting the aggregate amount of them for the whole year, the *kists* due on each harvest being intermediately paid on account, according to the usual proportion of the *mofussil kistbundy* or instalments.

Agore betay forbidden.

The practice of *agore betay*, (taking the Government's half of the produce in kind after the crop has been reaped, or gathered,) was at the same time forbidden, as affording to individuals the means of defrauding Government of its due proportion of the produce; and in the form of the *pottahs* for the *betay* lands, it was directed to be specified, whether the value of the produce was to be divided between the *aumil* and the *ryot* in equal proportions, or with such *zabetaneh*, or established difference, as the custom of each *pergunnah* authorized.

Authorized rates of *assul* and *abwab* on land in cultivation.

Second. In the *pottahs* for *nukdy* land, (land paying a specific money rent per *beegha*,) the name and length of the *nul*, or measuring rod, was directed to be mentioned; and as since the year 1781, sundry new articles of *abwab* and charges had been introduced, the *pottah* provided, that all new *abwab* and charges introduced since the Fussily year 1187, should from the year 1196, of the same era, be considered as prohibited and relinquished, and that the *maal* or original rent, and *abwab*, or cesses, which existed in that year, viz. 1187 Fussily, being incorporated with the *maal*, so as to form only one aggregate sum, this sum, or specific rate, should constitute what the *ryots* or cultivators of the *nukdy* lands were to pay per *beegha*.

Rates of fallow or uncultivated lands.

Third. The rent of waste land intended to be brought into cultivation, was directed to be fixed at such rates as the *ryots* might willingly agree to pay, and without *abwab*.

Instructions for carrying these provisions into execution.

IV. On the 1st of July 1788, the *canoongoes* were apprized of the above rules, and of the raja having deputed *ameens* for the purpose of carrying them into effect; and they were further informed, that they were to co-operate in fixing the jumma of the *nukdy* lands, and ascertaining the proportion and mode of assessment on the *betay* lands; and that wherever, during the administration of Raja Cheyte Sing, the *nul* or measuring rod, was more or less than the rod of three *dirrahs ilahee*, (which rod alone was ordered to be used for the future,) or wherever a *beegha* consisted of a greater or less extent of land than twenty *biswahs* in the Fussily year 1187, they were to adjust in proportion to these varieties in the rod, and in the extent of the *beegha*, the rates and modes of the *nukdy* and *betay* revenue in one sum, agreeably, and, as nearly as might be possible, equivalent to, the *asul* and *abwab*, or *zabetaneh* of that year, and to fix the rates in the *pottah* accordingly. *Pottahs* were in consequence issued by the raja's *ameens*, comprehending the above specifications, but not so generally or accurately, as fully or effectually to accomplish the object of their deputation; and in the rates inserted in these *pottahs*, they likewise omitted to make allowance for the difference between the old and new measuring rods and *beeghas*.

Extent and dimensions of a *beegha* of ground, according to the authorized measurement of three *dirrahs ilahee*.

V. The *beegha* of three *dirrahs ilahee*, thus established, consists of twenty poles, each measuring eight feet, and four inches, and eight-tenths of an inch; the whole length being one hundred and sixty-eight feet, giving a surface or area of twenty-eight thousand, two hundred and twenty-four square feet, or three thousand one hundred and thirty-six square yards; and the *biswah*, or twentieth part of this *beegha*, of one hundred and fifty-six square yards, and eight-tenths of a yard. On its appearing that several of the *aumils* and *canoongoes* understood that the *kesraut*, or difference in the length between the former and present measuring rods, was to affect the assessment on all kinds of cultivation, the resident issued an explanatory notification on the 12th of May 1789, to the following effect, viz. In the places where the *nul* or rod of 1187, was less than the general standard rod established for that year, such difference was to be taken and calculated per *beegha*, on the *jummaee* or *kowlee*, i. e. *nukdy* land, and also upon that known under the denomination of *rye kunkooty*, or land the produce of which is calculated at a fixed or usual quantity per *beegha*, and the revenues rated thereon accordingly.

cordingly. Thus, where the *rye kunkooty* had been three maunds or four maunds, or taken at any other specific estimate per *beegha*, according to the *rye* or rate of 1187, upon the *ryot's* cultivation in general, either on each distinct kind of produce, or upon a medium of the first, second, or third kinds of produce; in such cases, on the principle prescribed with respect to the *nukdy*, the difference of the rod was to be taken in all instances, where actual mensuration by the new rod of three *dirrah ilahee*, should at the desire of either party be resorted to, for ascertaining the whole extent of ground in cultivation. But on the contrary, where the *ameen* of the *aumil*, in the mode termed *kunkoot*, should proceed with the *gowro* or estimator, and the *gomashtah* of the *canoongoe*, and these two last mentioned officers, with the consent of both parties, should estimate the produce of the crop on an inspection of it without measurement, the taking the difference of the rod was neither necessary nor proper, the whole produce being estimated without reference to the extent of the *beegha*. All parties were required to attend to the letter and spirit of these prescriptions; and in conformity thereto, it was further signified to them, that where the crops were estimated in the mode termed *danabundy kunkooty*, that is, where the revenue is assessed according to the gross produce, without a measurement of the ground, the *keeraut* or difference between the old and newly established rods was not to be taken, as in these instances, the revenue payable to Government was not calculated on the extent of the ground, but on the gross quantity of the produce. It having appeared also that in the old *nuls* or *lettas*, (measuring rods or ropes,) the *ryots* had been defrauded by the *aumils* unduly shortening them, by subtracting from their length the *mour* or loops at each end, it was ordered that in ascertaining the difference between those new and old *nuls* or *lettas*, the full length of the old ones should be allowed in favour of those who pay the revenue, inclusive of the *mour* or loops.

In what cases the *keeraut*, or difference between the old and new *nuls*, are to be taken into account.

Rule as to the *mour* or loops.

VI. The rules passed on the 25th June 1788, (as contained in Section 3,) were approved by the Governor General in Council, on the 3d of October of the same year, as preparatory to the establishment of a more regular system of assessing and collecting the revenue. With a view to the introduction of this system, the resident was at the same time authorized to take upon himself the entire formation of the settlement for 1196. This settlement was accordingly made principally on the grounds of the reports of the *canoongoes*, and their estimates of the actual produce, from the *asul* and *abwab*, as the same stood in 1187 Fusily, (the rates of which year were declared to be the standard according to which the payments of the *ryots* were to be regulated in future,) and the same accounts for 1195, or the latest assessment. These accounts exhibiting the assets of those two years, were compared with the *douls* or estimates of the assets of the then current year 1196, as delivered in by the *canoongoes*. From these *douls*, the *dehyek*, or allowance of ten per cent. to the *aumil* as his profits, and the charges of *mofussil* management; the several articles of deduction and remission coming under the heads of *maafy* and *mujray*; the amount of the *nankar* or allowances of the *canoongoes* in the lands assigned to them in each *pergunnah*; and the half of the former *bhuray*, (i. e. the moiety thereof allowed to the *aumils* for charges of remittance,) being severally deducted, the residue of the gross assets, as contained in the *doul* or estimate of the *canoongoes*, constituted the sum to be paid by the *aumil* to Government.

Settlement of 1196 Fusily.

Settlement of 1196 Fusily.

How fixed, and the constituent articles of it.

VII. The other moiety of the *bhuray* mentioned in the preceding section, (which had previously been collected on behalf of Government,) together with the article of *nuzeranah* and *russoom khawanah*, &c. were abolished, in the course of the arrangement of the settlement of this year, together with the farm of the manufacture of the earth called *sujee*, which had before been let on lease by the raja's officers.

Abolition of the Government's moiety of the *bhuray*, and of the articles of *nuzeranah*, and *russoom khawanah*, &c. as also the *sujee mehal*.

VIII. *First.* A new form of *cabooleut* was at the same time ordered to be taken from all the *aumils*, in which the *doul* of the *canoongoes*, and the deductions made therefrom on account of lands exempted from the payment of revenue, and the form of the new *pottah* for the *ryots*, were inserted. The *aumils* bound themselves to perform and abide by the several stipulations and prescriptions therein contained, as fundamental conditions of the settlement. They likewise engaged not to demand from the *ryots* any *abwab* established since 1187; nor any *abwab* for the *canoongoes'* allowances, or the banker's half of the *bhuray*, the latter article consisting, as specified in Section 6, of an allowance to the *aumil* to pay the charges of the banker through whom he made his remittances to the treasury. Both of these articles, viz. the cess hitherto levied from the *ryots* for the *canoongoes'* allowances, and the

Engagements of the *aumils* for 1196 Fusily, founded on the preceding rules and principles;

half *bhuray* in question, (the other moiety of the latter of which articles was relinquished by Government as specified in Section 7,) were abolished, and struck out of the settlement. It was at the same time provided, that the *canoongoes* should be paid by Government from the collections, whilst the amount of the banker's portion of the *bhuray* was granted as a deduction to the *aumil*, from the *tuskhees* or funds stated in the *doul* or estimate of the *canoongoes*, on which the agreement of the *aumil* with Government was founded. On these principles, a general settlement of the *zemindaree* was made on leases partly for one, and partly for five years, in the proportion of nearly one-third for the former, and of two-thirds for the latter term.

and settlement thereon made for the term of five and one year.

Rule regarding *hukul tehsil* in case of change of farmers in the course of the year.

Second. On the 12th of February 1789, a rule was published for determining the *hukul tehsil*, or commission on the collections made by farmers of villages relinquishing their engagements before the close of the year. This rule directed, that if the *jumma* payable by any such farmer to Government, did not exceed five thousand rupees per annum, he should not be entitled to, or receive, any such commission, but be held accountable to his successor for the full amount which he had realized, or, where he was not succeeded by any new farmer, to the *aumil*; but that in the event of the annual *jumma* of such farmer exceeding five thousand rupees, he should be allowed a commission of five per cent. by the *aumil* out of his own *dehyek*, (or the commission of ten per cent. on the amount which he contracted to pay to Government,) so as in either case, to prevent the *ryots* from suffering by the change of village farmers, whose repeated intermediate commissions had often been levied from them, by way of cess above their appointed *futeh* or rent, under the former native administrations in the *zemindaree*.

Subsidiary rules for the *mofussil* settlements.

IX. *First.* For the guidance of the *aumils* in forming their *mofussil* settlements, (which took place from the beginning of the Fussily year 1196,) the following orders were issued on the 14th of June 1789, respecting the interior arrangements, to be adopted from the commencement of the second year of the term of the leases for five years.

Reinstatement of the village *zemindars*.

Second. That the villages and lands should be let by the *aumils* to the *zemindars*, or hereditary landholders, and not to mere farmers, (excepting where no hereditary landholders remained,) on the *douls* or estimates of the revenue assets in each person's share in the lands let on a five years lease, for the remaining four years thereof; but that where the hereditary *zemindars* refused to engage, and give security for the payment of the amount of the *canoongoes' doul*, their lands should be rented for the same term to farmers, and that the *pottahs* to be given according to the prescribed form, should contain the full amount to be paid on all accounts to the *aumils*, without any reservation of a separate *nuzeranah*, or other demand.

Rule prohibiting the readmission of dispossessed *aymadars*.

Third. During the administration of the Nawaub Vizier, a sequestration was made of sundry *ayma* villages, several of the proprietors of which had obtained money assignments, and pensions in lieu thereof, one of which pensions also was afterwards resumed during his excellency's government. In consideration of the long period which had elapsed since the dispossession of these *aymadars*, it was declared, that if any of them should prefer claims to be restored to the lands which they before occupied, under their former grants, such claims would not be attended to or admitted.

Reasons for concluding a permanent settlement.

X. The settlement as made in 1196, for the periods of one year and for five years, was approved of by the Governor General in Council, on the 17th of June 1789. The resident was at the same time directed to endeavour to introduce into Benares, the system proposed for the permanent settlement of the province of Behar; having for its object, the ascertaining and limiting the demand of Government, and securing to its subjects in perpetuity, the quiet enjoyment of the fruits of their industry. The arrangements which had been adopted in Benares, were obviously inadequate for that purpose. The amount of the revenue realizable by the *aumils* from the *ryots* and under-farmers, varied agreeably to the extent of the actual cultivation; and accordingly, the produce of the lands not being ascertainable until the *rebby* or second crop had ripened, the *aumils* collected in the mean time from their under-renters, (whether village *zemindars*, or farmers,) on account, until the arrival of the season for forming an estimate of the produce of the whole year, when the *zemindars* or farmers entered into *cobooleats* for the year. This mode of collection was productive of many disputes. When it appeared to the *aumil*, that his under-farmers were unwilling to pay to him an ade-

Source of dispute between the *aumils* and village renters, under the former system.

quate consideration for their farms, he of course became desirous of dispossessing them, and of either letting the farms to others, or of collecting the rents himself immediately from the *ryots*. This system tended to discourage agriculture, at the same time that it operated as a source of constant altercation between the *aumil* and the various competitors for village tenures, and consequently rendered it desirable to conclude separate *mofussil* settlements, formed under the sanction of Government, for each *talooka* and *mouzah*, or village, throughout the country, paying revenue to Government.

Plan for forming the quartennial and decennial *mofussil* assessment.

XI. On the receipt of the orders of the Governor General in Council, of the 17th of June 1789, the resident issued instructions to the *aumils* and *canoongoes*, to proceed in the *mofussil* settlement, declaring it however subject to his revision and confirmation, as he had determined, when the *rebby* or second crop should have been sown, to form an estimate of the revenue funds in each village, payable by the *zemindars* and farmers respectively, and to fix it for the four unexpired years of the five years leases of the *aumils*, wherever those leases extended. This revision was appointed to take place in each *pergunnah*, in order that after the *mofussil* settlements for four years, beginning from 1197, should have been approved, it might be declared permanent for the same term as the settlement to be made for the period of ten years, throughout that portion of the district which was let on only an annual lease. This last part of the arrangement was to be executed more immediately under the personal inspection of the resident, on nearly the same general principles as had been prescribed by Government for the settlement of the province of Behar. On these preparatory measures being communicated to the Governor General in Council, it was resolved, that a settlement of the *zemindaree* of Benares should be formed for a period of ten years, agreeably to his resolutions of the 20th May, and 18th of September, 1789, regarding the settlement of the province of Behar.

Respecting village *zemindars* dispossessed previous to the Fussily year 1192, (A. D. 1775).

XII. A material deviation, however, was unavoidably made from these resolutions. For raja Mahipnarain at that time declining, (although he subsequently acquiesced in the measure, as specified in Regulation I. 1795,) to consent to the restoration of the numerous class of village *zemindars*, who had been dispossessed, and reduced to the situation of cultivating *ryots*, during the administrations of the rajahs Bulwunt Sing and Cheyte Sing, it became necessary to exclude from the benefit of the rights to be conferred by this decennial settlement, all those landholders who had been so dispossessed and reduced before the 1st of July 1775, (1182 Fussily,) the date of the final transfer of the sovereignty of Benares to the Company.

Rules for forming the permanent settlement.

XIII. For the purpose of forming this permanent settlement, the resident and his assistants proceeded in November 1789, on different circuits, throughout the four *sircars* composing the *zemindaree* of Benares, their object being, in respect to the quartennial *mofussil* settlements, to examine and revise the assessment, as proposed by the *aumils* and *canoongoes*, on the ground of the *asul* and *abwab* up to the year 1187; and to correct such errors as should appear to have been made, either in the exclusion of persons entitled to be considered as *zemindars*, (consistently with the rule of exclusion, specified in Section 12,) or in the allotment of the *jumma*, in the constituent parts of the total of the assessment of each district. This allotment was to be regulated, (as well in regard to the quartennial as the decennial settlements,) as nearly as might be ascertainable, according to the ability of the respective villages, or *puttees*, (or shares or sub-divisions of villages,) so as to admit of the *zemindars* and farmers realizing the revenue assessed in conformity to the revenue rates of 1187; and where a large proportion of the land remained waste and uncultivated, a gradual and moderate *rusaud* or encrease, for the few first years of the term of the general leases was to be assessed, in consideration of the right of Government to some share in the advantages accruing to the renter, by bringing the land into cultivation. It was farther provided, that the article of spirituous liquors, and the tax upon shop-keepers, dealers, and weavers, comprehended under the denominations of *abkaree*, *ghur dewary* and *khergus*, should be separated from the collections of the renters, and realised by the *aumils* of the respective districts, as far as those articles separately existed, but without attempting to extend them.

Rusauds.

Articles of *abkaree* and *ghur dewary*, and *khergus*, left *amanny*, and reserved to the future disposal of Government.

How the deeds for the settlement were issued and authenticated.

XIV. *First.* In the manner above described, and with the assistance of the accounts of the *tushkees* for the preceding ten years, and such other accounts and local information as could be obtained through the *canoongoes* or otherwise, the *mofussil* settlements for four and

ten years were concluded. The *pottahs* for the settlements for four years, were issued under the seals of the *aumils*, and numbered and countersigned in English by the resident or his assistants; and those for the settlements for ten years, were authenticated by the signatures of the raja and the resident. The *cobooleats* or engagements entered into by the village *zemindars* and farmers on the formation of the permanent settlement, bound them to an observance of the following articles.

Engagements of the *malgusars* on the conclusion of the permanent settlement.

Second. To pay the stipulated annual revenue punctually from the month of Koar, (October) to Jeyte, (June) in each year; and agreeing in case of failure, that their property real and personal, should be sold to make good the deficiency.

Lands and property liable to be sold for balances.

Third. Not to attach, without the sanction of Government, any *maafy*, *mujray*, *kishnurpun*, or other description of *lakheraje* land in the possession of individuals, and held by them exempt from the payment of revenue, up to the end of the Fussily year 1195; and agreeing in the event of Government's resuming any part of such exempted lands, to pay the revenue assessable thereon, in addition to the *jumma* fixed by their engagements, and stipulating not to make any new grants of exempted lands, on pain of such lands being confiscated to Government, and of double the revenue assessable thereon being levied from the grantee or grantees, for the period during which such grantee or grantees should have continued in possession.

Rule respecting *lakheraje* lands, or lands held exempt from the payment of revenue.

Fourth. To collect from the *ryots* according to the *hookumnamas* or regulations of the 25th of June and 1st of July 1788, referred to in Sections 3 and 4.

General rule for the collections.

Fifth. To grant receipts to the *ryots* for their payments, under the penalty of a fine of double the amount, to be awarded to any *ryot* who should prove that he had been refused such receipt.

Receipts.

Sixth. To support the *canoongoes* in the full exercise of their functions.

Registry of the *canoongoes*.

Seventh. Not to levy or receive any of the articles of the abolished *sayrjehaut*, nor any sum on account of *khaneh shoomary*, (another term for the *ghur dewary* or house tax,) or *abkaree* or distilleries, the collection of the two last mentioned articles, (as specified in Section 13.) having been separated from the general settlement, and committed, on behalf of Government, to the *aumils*. The penalty for breach of this article was fixed at three times the amount that might be illicitly collected.

Prohibition as to the *sayrjehaut*, and the house tax, and that on spirituous liquors.

Eighth. To be responsible, subordinately to the *aumil*, for the maintenance of the peace, and for apprehending all disturbers thereof, in and throughout their respective estates and farms; not to harbour thieves or robbers, but to secure their persons and deliver them up for trial, as well as to recover, or, in failure thereof, to be answerable for, and to make good the value of, all property robbed or stolen within their respective limits.

Responsibility in respect to thefts and robberies, and to breaches of the peace.

Ninth. To send in for trial, accompanied by an attested report of the circumstances of the case, all parties concerned in broils, affrays, murders, or other breaches of the peace.

Broils, affrays, and murders.

Tenth. To obey all summonses or orders issued on the part of Government, on pain of incurring forfeiture of property, as for rebellion.

To obey summonses.

XV. *First.* On the conclusion of this permanent settlement, new engagements were also entered into with the *aumils*. By these engagements, their office was declared to be that of *hakim* or magistrate, and *tehsildar*, or collector of the revenue ascertained by the *pottahs* issued to the village *zemindars* and farmers to be payable from their several *aumildarees*, and they rendered themselves responsible for the regular realizing the amount of this revenue, and bound themselves to abstain from levying any excess on their own account; to enforce the several stipulations with the landholders and farmers as set forth in Section 14; and to cause the village *zemindars* to issue *pottahs* to their *ryots* in conformity to the regulation of the 25th of June 1788. They were also vested with a discretionary authority to diminish, or to admit to be lowered, the revenue rates of 1187 Fussily, where the exaction of them might be found, under the actual circumstances of any part of the district, to operate to the oppression or distress of the present cultivators; but they were at the same time prohibited from enhancing the rates of the said year 1187, under any pretence whatsoever. They were further required to grant receipts for all payments of revenue made to them, on pain of being subject for refusal or omission, to such fine as the resident should think it proper to impose;

Authority of the *aumil* as *tehsildar* or collector, and *hakim* or magistrate.

His responsibility in respect to the collection of the revenue assessed according to the settlement, and not making further collections.

To carry into execution the stipulations with the village *zemindars* and farmers, and to cause *pottahs* to be issued to the *ryots*.

Revenue rates of 1187, may be lowered, but not enhanced.

Receipts.

impose; to regulate the rates of *tullubana* leviable on parties in arrear, by the custom of the *pergunnah*, and to account for and pay the sum realized under this head to Government; and to refrain from the collection of any part of the *sayer* or *gunje* tolls or duties, under the same penalty for disobedience, as the village *zemindars* and farmers are declared liable to in similar cases, as specified in clause seventh, Section 14. They were also declared personally responsible to Government in the first instance, in regard to the maintenance of the peace, and thefts and robberies committed within their respective *aumildarees*, under the rules prescribed in similar cases with respect to the *zemindars* and farmers in clause eighth, Section 14, with a right however to have recourse for their own indemnification, to the landholder or farmer, within whose limits the theft or robbery might occur.

Tullubana.

Abolished *sayer* and *gunje* duties.

Responsibility in regard to theft and robberies, and breaches of the peace.

Second. In their capacities of *hâkims* or magistrates, the *aumils* were instructed to apprehend and send in for trial, accompanied by the necessary information and evidence, all persons committing breaches of the peace; and in concert with the *canoongoes* to enquire into, and to decide, (subject to an appeal to the resident, should either of the parties desire it,) according to the principles of the regulations of the 25th of June 1788, all complaints preferred to them regarding differences occurring between the *zemindars*, farmers, and *ryots*, relative to the *malgoozaree* or revenue, with authority to refer, with the consent of the parties, other causes of a civil nature, respecting cast, marriage, shares in land, and debts, to be determined by arbitration; or, where both parties should not consent to this mode of adjustment, to desire them to repair to and institute their suits in the *moolky dewanny adawlut*, or provincial civil court established at Benares; to all orders and decrees issued from which, or from any other court of justice, or from the *raja* or the resident, the *aumils* were required and agreed, on pain of dismission, to yield the most prompt obedience.

To apprehend disturbers of the peace.

Third. It having afterwards appeared, that in several instances, the *aumils* had clandestinely availed themselves of their authority to procure deeds of conveyance, in their own names or those of their relations, for lands the property of persons in arrears on account of the revenue, and whose balances had been thereby either wholly or partially liquidated; a rule was published on the 19th of September 1794, prohibiting and declaring null and void, all such conveyances that might be made in future: and on the 31st of October following, a further rule was passed, giving to all persons who might have thus disposed of their lands, or to their heirs, or *putteedars*, the option of suing for the recovery of them in a court of justice, at any time within five years from the date of such conveyances; and the parties so prosecuting were declared entitled to have the conveyances annulled, and to regain possession of the property, on repaying to the purchasing *aumil* or his heirs, the purchase money, with simple interest.

Rule in respect to lands conveyed to *aumils* in liquidation of balances.

XVI. *First.* The adjustment of the disputed claims to lands, formed one of the principal difficulties which occurred in the progress of the settlement. In many instances, contests existed between the *putteedars* or sharers in the same village, as to their respective proportions, or between claimants of different families to the same villages. In all these cases, it was observed as a general rule, to confirm or admit those *zemindars* who were either in the actual occupancy, or who had at any time been known to have had possession since the final transfer of Benares to the Company in 1778, (the *zemindars* dispossessed before which period, the Governor General in Council, on the 11th April 1788, determined should not be restored, in compliance with the objections which the raja then entertained to their restoration, but which he subsequently relinquished as stated in Section 12;) leaving those who might think themselves entitled to reinstatement under this rule, to seek redress in the *moolky adawlut*. But as it became necessary, during the progress of the settlement, to pass orders in a summary way, on disputes of this nature, it was explained to all parties, that the new *pottahs* were meant only to fix the rental, and in no wise to constitute a bar to the recovery of any proprietary right in land, for which suits might be instituted in the courts of justice above mentioned, in the same manner as if no such *pottahs* had been granted. Instructions to this effect were issued to the judge of the court, and separate engagements were taken from all the present *pottah*-holders, whether *zemindars* or farmers, binding them to a ready attendance on, and submission to, the judicial authority of the said court, and the court of appeal, in respect to all such causes; and the *aumils* were prohibited from making alterations in the *pottahs*, excepting in conformity to judgments passed in both or either of those courts. The settlement thus con-

Rules for the confirmation or establishment of the rights of the *zemindars* and other landholders.

In what proportion the settlement was concluded with *zemindars* and farmers.

cluded, consisted of engagements with *zemindars*, for about eight twelfths of the whole country; of leases to farmers for about three twelfths; whilst the remaining twelfth continued *amanny*, in consequence of there being found for the places included in the last mentioned portion, neither *zemindars* nor farmers; so that the *aumils* collected the public dues immediately from the *ryots*.

Rule for the adjustment of accounts between *zemindars* recovering possession from farmers.

Second. Pursuant to the principles prescribed for this quartennial and decennial settlement, sundry village farmers having been removed during the progress of it, by the re-instatement of the rightful *zemindars*, a rule was published on the 21st of February 1790, for adjusting the accounts of the *wassilaut* or current year's collections between such parties. By this rule, the displaced farmers were entitled to credit for the amount of whatever *tuccavy*, (money for the purchase of seed,) they might establish to have advanced to the *ryots*; together with a commission of three per cent. (whatever might be the extent of the farm) on the amount of the revenue realized. The amount of this charge was to be borne altogether by the reinstated *zemindar*, without his being entitled to make any demand on that account from his *ryots*, who were only to repay to him the amount of the *tuccavy* that had been really advanced to them by the removed farmer. But such farmer was not to be allowed credit for the amount of any bonds or engagements executed by *ryots* for sums stated to be advanced for *tuccavy*, but which should in reality have been taken from them for the balances of former years, which were thence virtually declared irrecoverable.

Description of a *zemindaree* under the permanent settlement, and of the joint *putteedaree* tenures therein comprehended, with the differences in respect to the latter, as being either distinct, or remaining annexed and blended, or in common.

XVII. *First.* The landholders in the *zemindaree* of Benares consist for the most part of village *zemindars*, paying the revenue of their lands to Government, jointly with one or more *putteedars* or partners, descended from the same common stock. Some of these *putteedars* have had their interior *puttees* or shares rendered distinct; whilst those of the major part still continue annexed to, and blended or in common with, the share or shares of the principal of the family, or of the head men amongst the brethren, being either one or more, whose names have been usually inserted in the *pottahs*, *cobooleats*, and other engagements for the public revenue. With the general consent of the inferior *putteedars*, this mode was adhered to in the aforesaid settlement, leaving an option to such *putteedars* as might then or afterwards think themselves aggrieved, or be desirous of separating from their brethren, to prosecute for that purpose in the *adawlut*. By this mode of procedure, they may obtain a separation of their family share of the estate, and procure a separate *pottah* subject to the payment of a proportionate part of the *jumma* assessed on the joint estate; but in the mean time, those of the bre hren whose names stand inserted in the Government's *pottah*, are held and considered to be immediately responsible through the *aumils* to Government for the whole of that *jumma*. The only exception to this general rule, exists in the *pergunnah* of Kurrendeh, where the decennial settlement could only be concluded by a considerable number of these *zemindars* being admitted to enter into *cobooleats*, in which they themselves agreed to the nomination of certain persons to act on their joint parts, under the description of *serberahkars* or managers. This expedient was acquiesced in, under the condition that the responsibility of the *zemindars* should remain undiminished, and that they might, whenever they pleased, dismiss these agents, after adjusting accounts with and satisfying them, as to any balance that might be justly due to them.

Serberahkars or managers, in the *pergunnah* of Kurrendeh.

Talookdaree tenures in Benares.

Second. There are also many *talookdarees* within the four *circars* composing the *zemindaree* of Benares, which have depending on them, a greater or less number of village *zemindars*, many of whom still retain the right of disposing by sale of their own estates, subject of course to the payment of the usual *jumma* to the *talookdar*, and to the conditions specified in clause ninth, Section 35, Regulation XXII. 1795. The settlement of Government has been concluded (on the same principles as are prescribed respecting the *zemindarees*,) with these *talookdars*, who are left to assess their village *zemindars*, either in proportion to their own *sudder jumma*, with some addition for charges of management, or, according to the extent and value of the produce, as local custom, or the good will of the parties may direct.

Particular circumstances of the *pergunnah* of Burhur Agowrie;

Third. The circumstances of the *pergunnah* of Agowrie Burhur in the *circar* of Chunar, constitute in some degree a deviation from the rule observed in the general settlement. This *pergunnah* appertained to its separate rajas, until they were expelled by raja Bulwunt Sing. Their descendants appearing, and having performed some public services in 1781, Government ordered that raja Adil Sah, their then representative, should be restored. This

order appearing afterwards to be repugnant to the principle of the general settlement concluded with the raja Mahipnarain Sing, the tenure of the family of Adil Sah was, by an order of Government under date the 11th of April 1783, limited to the period of his natural life, during which, the interior settlement of the *pergunnah* was, with his consent, and under his seal and the resident's signature, made with the *talookdars* and *zemindars*, most of whom were of his own blood and lineage; or with the *birteeas*, being the persons on whom his ancestors had conferred grants of lands; or with *gherrooas*, being such persons as he or his ancestors had put in possession of lands on mortgage. These several descriptions of landholders are considered as having a permanent interest in their tenures, which have therefore been included in the general account of the settlements concluded with *zemindars*. The remainder of the *pergunnah* has been let to farmers, on the conditions common to the rest of the four *circars*. Raja Adil Sah subsequently dying, Government, with the acquiescence of raja Mahipnarain, permitted his heirs to succeed him in the *pergunnah*, in the permanent settlement of which, however, they are restricted from making any alterations or innovations equally with the other *aumils* or *tehsildars*.

Fourth. The *pergunnah* of Beleeah in the *circar* of Ghazeepoor, is similarly circumstanced, as to the expulsion of its rajas by raja Bulwunt Sing, and the intended restoration of Bhowayel Deo, their present representative. But his reinstatement having never taken place, he is allowed to live in the *pergunnah*, on a pension, which he receives from Government; and the settlement has been made with such of his family, and of those rajas of Beleeah who preceded it, as could make out pretensions to permanent tenures or estates; and where such pretensions could not be established, or were not preferred, the settlement has taken place with the *mokuddums*, or those of the principal *ryots* who had long paid the revenue of their present tenures, being the villages of which they are inhabitants; it being meant that these *mokuddumy* tenures should be considered equally permanent, and be liable to the same conditions as those of the *zemindars*: and where neither of these descriptions of persons could be found, the villages were let to farmers, excepting such part of them as for want of farmers, remained *amauny*. and of the *pergunnah* of Beleeah in the *circar* of Ghazeepore;

Fifth. The *zemindaree* part of the *talooka* of Mujehwa in the *pergunnah* of Kuswar and *circar* of Benares, has been let out in separate portions, under the seal of Phelwaun Sing, (the principal *talookdar*, and who was acting at the same time as *aumil* and collector on the part of Government,) and the confirmatory signature of the resident, or of his assistant, to Phelwaun Sing himself, and his relations; he being subject to the same restrictions with regard to making alterations in the settlement without the sanction of Government, as are imposed on the heirs of raja Adil Sah, in the *pergunnah* of Burhur Agowrie, as specified in clause third. and of the *talooka* of Mujehwa in the *pergunnah* of Kuswar or Gungapoor;

Sixth. In the settlement of Kernadanry in the *pergunnah* of Kuswar or Gungapoor, there is this peculiarity, that after the conclusion of it, raja Mahipnarain objecting to *pottahs* being granted by the resident to the parties with whom was it made, on the ground that the *talooka* in question formed part of his family *zemindaree* of Gungapoor; it was in consequence settled between the raja and the resident in October 1794, that although, in consideration of the raja's objections, the *malguzars* of this *talooka* of Kernadanry should not receive *pottahs* from Government, in exchange for the *cobooleats* they had entered into, the raja, (who is their *tehsildar* or collector,) should not dispossess any of them without the sanction of the officers of Government; and in the event of complaints for exaction, that the case should be open to the same mode of enquiry, as is established for similar complaints arising in the *malguzaree* lands in general; so as to continue the abovementioned *talooka* in this respect distinct from the *neej* or family *zemindaree* lands of the raja. These family lands consist of the *jaghires* of Budhoee, and of Kera Mungrore, and of the raja's part of the *pergunnah* of Kuswar or Gungapoor, inclusive of the *talooka* of Kerowna; and in consequence of objections offered by the raja, no *mofussil* or interior settlement has been made in them by the authority of Government; and the administration of justice in all matters relating to their revenue, is specially provided for in Regulation XV. 1795. and of the *talooka* of Kernadanry in the same *pergunnah*.

Seventh. The *pergunnah* of Lucknesr in the *circar* of Ghazeepoor, is inhabited by a race of *rajpoots*, distinguished by the appellation of Singhers, who pay a moderate fixed revenue, (which they assess amongst themselves,) to the *tehsildar* or native collector stationed with them As to the *pergunnah* of Lucknesr.

them on the part of Government, whose allowances they separately defray; and as neither the native nor the British Government, had interfered with the interior assessment of this *pergunnah*, it was not included in the general arrangements that took place at the period of the quartennial and decennial settlements.

Peishcushy villages in the *circar* of Juanpoor.

Eighth. In the *pergunnah* of Juanpoor proper, and in that division of this *sircar* called the Buksheeat there are a certain number of villages held by Mahomedans, in virtue of *attumgah*, *muddud-maush*, or *jaghire* grants, from the emperor, or from the *soobahdars* of Oude, but on which a *peishcush* by way of quit rent, was established during the administration of the native government. These *peishcushy* tenures were continued at the period of the permanent settlement.

Singrowlee.

Ninth. That part of the tract of country called Singrowlee, situated to the southward of the Soane river, which extends as far as the Belea rivulet, is tributary to the *zemindaree* of Benares, whilst the tract of the same district that lies beyond the Belea, pays tribute to the independent raja of Burdee.

Salt farms.

XVIII. The districts in the *circar* of Juanpoor, in which salt is produced and manufactured, were let in farm either inclusive of the land revenue, or separately.

Provision made for the *pottahdars* becoming *huzoory* in case of oppression on the part of the *aumil*.

XIX. In consideration of the habits prevalent amongst the newly restored body of *zemindars* on their first reinstatement, it was thought advisable to continue them, at least for a period, under the superintendency of the *aumil* of Government, both in respect to the police, and the payment of the revenue. But at the same time to provide against exactions being made from them by the *aumils*, it was, in addition to the penalty specified in Section 2, declared a rule, that all persons holding *pottahs* of Government who might prove any oppression against their respective *aumils*, should thereupon have the option of becoming *huzoory*, that is, to pay their own revenue directly to the public treasury, without the intervention in any shape of the agency of the *aumil*.

Government's confirmation of the settlement for the period of the lives of the *pottah* holders, and abolishing of the tax on weavers.

XX. The settlement thus concluded, was confirmed by Government, and extended to the lives of all the *pottahdars*, by an order of the Governor General in Council under date the 11th of February 1791, with the exception of the part of the *ghur dewarry* tax, described in Section 13, levied from the weavers under the denomination of *khergui*, which was abolished.

Qualifications in respect to the rule for disallowing of *agore-betay*.

XXI. The enforcement of the prohibition in Section 2, against *agore-betay*, having met with some opposition from certain *brahmins* and *atteets*, the Government's share of whose crops had always been ascertained in that mode, and who declared their intention of committing violence on themselves, if it was not adhered to with regard to them; the resident, on the 17th of January 1789, issued a publication disapproving of the conduct of these *brahmins* and *atteets*, and apprizing them that the regulations would be enforced. But the practice of *agore-betay* having prevailed only in a small portion of the country, and consequently there being little probability of many similar instances of opposition occurring, the resident thought it advisable to accompany this publication with an order to the *aumils*, authorizing and enjoining them not to insist on receiving a money rent from such of the abovementioned *brahmins* and *atteets* as should so persevere in their objections, but to continue the practice of *agore-betay* with regard to them, until they should consent to the payment of a money rent as well as to the rate of the rent. This order was sanctioned by Government.

Resident's proceedings from the beginning of 1202 or 1794-5, towards restoring the defective parts of the permanent settlement.

XXII. The first period of the quartennial settlement having expired with the Fussily year 1200, several farmers and some of the landholders, not choosing to avail themselves of the privilege of retaining their leases during their lives, as granted to them by the order of Government of the 11th of February 1791, the lands which they held consequently became *amauny*. The death of renters, the abuses occasionally practised by the *aumils*, and the over assessment of some places, had occasioned vacancies in other tenures, during the several years that had elapsed since the conclusion of the general settlement. In consequence of instructions from Government under date the 19th of September 1794, the resident proceeded to re-adjust the settlement of the lands which had been included in these leases, by restoring such of the renters as appeared to have been unduly dispossessed; by admitting the heirs of parties deceased; or reinstating the ancient *zemindars*, both in lands relinquished by farmers, or which had remained *amauny* in the hands of the *aumils*; and finally, by

adopting means to improve the cultivation preparatory to issuing new permanent leases (which were accordingly granted) to the landholders and farmers in the *pergunnahs* of Nerwun, Dhoos, and Chownsa, the settlements made in which places in 1197, had in general failed, owing to the lands being too highly assessed, and to drought, and other calamities of season. The settlement of Suktes Ghur, also being in a similar predicament, was renewed by the resident in the month of October 1792; and the experience of several years having evinced that some part of the *pergunnah* of Zemanca, in the *circar* of Ghazeepoor, had been too highly assessed, adequate abatements were in consequence allowed.

New settlements made in the *pergunnahs* of Nerwun, Dhoos, and Chowusa, and in the *tuppeh* of Suktes Ghur, and that of Zemanca corrected.

XXIII. In the beginning of the Fussily year 1202, a circular order, under date the 1st of November 1794, was issued to all the *aumils*, prohibiting them, under penalty of dismission from their *aumildarees*, from displacing or dispossessing any person holding a *pottah* from Government, without the assent of the resident; and on the 20th of July 1795, circular instructions were transmitted to the *canoongoes*, enjoining them to report without delay, the death of all such *pottah*-holders, that no lands might remain *amaany* under the *aumils*, without the knowledge of Government.

Aumils prohibited from dispossessing the *pottah*-holders; and *canoongoes* directed to report the names of all deceased persons of this class.

XXIV. In Section 19, it has been stated, that it was an original regulation of the general settlement concluded in 1197, that proof of the *aumil* having made undue exactions from, or otherwise oppressed, any of the landholders or farmers holding *pottahs*, and paying revenue to Goverment, should entitle such injured party or parties to become *huzoory*, i. e. to pay their revenue into the treasury at Benares, instead of through the medium of the *aumil*. But for the more effectual protection and security of such *pottah*-holders, an option of thus becoming *huzoory*, was given from the beginning of the Fussily year 1202, by a publication issued under date the 3dof October 1794, **to all such* pottah-*holders as should previously enter into the required* maal, fael, *and* hazer-zaminee, *or security for the punctual discharge of their revenue, for their peaceable deportment, and for their appearance whenever their attendance may be required. To enable them to procure these securities, they were allowed by the publication, one moiety of the* aumil's dehyek *and* bhurray *on the amount of the revenue payable by them.* This publication was sanctioned by the Governor General in Council under date the 19th of September 1794; but from the operation of it were excepted the lands under the raja and his family, comprehending not only the places specified in clause sixth, Section 17, but those also of which he holds the *aumildaree* or collectorship, viz. the *pergunnah* of Ralhoopoor, and the *talooka* of Jahloopoor, and those villages in the vicinity of Benares called the *dehaat amanut*. But in case of oppression proved, the *pottahdars* of these last mentioned places, and of all other *mohauls* under the raja, in which the settlement has been made by Government, are entitled in virtue of the original rule contained in Section 19, to become *huzoory*. The difference therefore between these *aumildaree mohals* under the raja, and the rest of the country at large, consists in it not being merely optional with the *pottahdars*, to separate from him under the publication above specified in this section. As to the administration of justice in these *aumildaree mohals* under the raja, the jurisdiction of the courts of judicature extends over them in common with the country at large, and consequently they do not form a part of the raja's *neej* or family lands, the administration of justice in which is provided for by Regulation XV. 1795.

Option of becoming *huzoory*, that is, of paying their revenue directly to Government, extended generally to all the land and leaseholders.

Encouragement held out to become huzoory

Exception to this rule, in respect to the rajah's *aumildaree* districts.

Qualification of this exception.

XXV. For determining questions concerning lands between *putteedars* or brethren, and partners, inheriting and being, or pretending to be, entitled to joint or distinct proportions of one *zemindaree*, it has been observed as a general rule since the conclusion of the permanent settlement, to consider as superior, and immediately responsible to Government, the person or persons amongst such *putteedars*, in whose name or names the Government's *pottah* has been made out, and to continue the other *putteedars*, or partners, in such situation as they shall have stood in, since the Fussily year 1197, leaving them, if dissatisfied with such order, to prosecute in the *adawlut* for any further claims.

Regulation relative to disputes between *putteedars*.

XXVI. The right of Government to dispose of landed property at public sale for the recovery of balances of revenue, is established by the tenor of the engagements of the *zemindars*, as noticed in clause second, Section 14; but in consideration of the local usages in that respect in the province of Benares, no such sales have hit herto taken place.

Practice in respect to the stipulations in Section 14, for recovering balances by the sale of the lands of defaulting proprietors.

* Rescinded by Section 2, Regulation VII. 1807.

Regulations in respect to the future periodical ascertainment of the value of the lands remaining *amaumy*.

XXVII. At the period of the settlement concluded in 1197 Fusily, the *aumils* pledged themselves in writing, and on the faith of their religion, to collect only according to the *jumma* specified in the *puttahs* issued to the *talookdars* and village *zemindars* and farmers, and to pay in the whole amount thereof to Government, after deducting the *dehyek*, and half *bhuroy*. But there then were, and have since remained, several spots of ground and *mouzahs* or villages, of which no fixed settlement having been made, the collection of the amount of the *tushkees* or ascertained funds which the *canoongoes* estimated to be realizable therefrom, was entrusted to the *aumils*. These funds had of course varied during the period that had elapsed since the conclusion of the settlement; and several of the *aumils*, on the expiration of their five years leases at the close of the year 1200, claimed and received deductions from Government for alleged deficiencies in the funds of those *amaumy* villages; whilst on the other hand, where the actual funds had exceeded the estimated receipts, it was presumable that the *aumils* or their officers had appropriated the surplus. From these considerations, and as the funds in the *amaumy* or *kham* villages appertained altogether to Government, (the *aumils* being entitled only to their *dehyek* and *bhuray*,) the resident on the 12th of January 1795, published an order, that from the beginning of the Fusily year 1202, the *tushkees* of the *amaumy* or *kham* or *cutcha* villages, in every *pergunnah*, was to be ascertained by *ameens*, or other persons empowered for that purpose, on the part of Government, and that the amount of the funds, after deducting the *dehyek* and *bhuray*, was to be paid by the *aumils* to Government.

Ameens deputed to ascertain their present state.

Ameens were accordingly deputed on the abovementioned date to ascertain the state of these lands, with instructions to summon the *putwarees* of every village, and in the presence of the *canoongoes*, and of the officers of the *aumil*, to ascertain the *tushkees* or assessable amount on each village and spot, then held *amaumy*, in conformity to the *rye* or rates of 1187; and afterwards to prepare and bring with them, the state of the *jummabundy* of each village under the attestations of the *canoongoes*, and the signatures of the *putwarees*, and the countersignatures of the officers of the *aumils*, that the payments of the *aumils* to Government might be regulated accordingly. The *ameens* were likewise instructed, that if, in the course of their enquiries, it should appear that any of the *aumils* had granted *puttahs* to their dependants, in any of these *amaumy* lands, at lower rates than those of the *pergunnah* or division in which they might be situated, such *puttahs* so granted by them were to be declared null and void, the *aumils* not having been empowered to dispose of any part of the revenue funds, but since the settlement in 1197, having been merely *tehildaran neshandar*, or responsible collectors.

Situation of the *aumils* as responsible *tehildars* or collectors.

Rule in respect to applications to obtain grants of spots of ground in the vicinity of Benares exempted from the payment of revenue for temples and gardens.

XXVIII. Inconveniences having been experienced, from the applications made to the resident for grants exempting from the payment of revenue, spots of ground in the vicinity of the city of Benares, on their being purchased by the native princes of India, or by wealthy natives, to convert into gardens or places of religious worship, the Governor General in Council determined, on the 28th July 1794, that no such grants should be made by the resident without the sanction of Government.

A. D. 1795. REGULATION XXVII.

A REGULATION *declaratory of certain Reservations made by Government, and of Rights preserved to the Proprietors of landed Estates, under the permanent Settlement of the land Revenue made in the Province of Benares; for allowing of the Transfer or Division of entire Estates, or Portions of Estates, and prescribing Rules for apportioning the fixed Jumma on the several Shares of Estates which may be divided, or Portions of Estates which may be transferred; and for continuing the Putwarees in the Discharge of their ancient Functions.*—PASSED *by the Governor General in Council on the 27th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

REGULATIONS I. and II. 1795, contain the rules according to which the settlement of the land revenue in the province of Benares, made for one year, and the quartennial and decennial settlements were concluded. By the first mentioned regulation, the decennial settlement has been declared permanent, and for the information and guidance of the *talookdars, zemindars*, and other actual proprietors of land, and all persons whomsoever, the following further rules respecting the permanent settlement are enacted.

Jumma which may be hereafter agreed to by proprietors whose lands are held *amauny*, or let in farm, declared fixed for ever.

II. As the lands of some few *zemindars*, and other actual proprietors of land, may have been continued *amauny*, or let in farm, in consequence of their refusing to pay the assessment required of them, under the regulations for the quartennial and decennial settlements; the Governor General in Council notifies to the *talookdars, zemindars*, and other actual proprietors of land, whose lands are held *amauny*, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them, in conformity to the regulations above mentioned, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs, and lawful successors, shall be permitted to hold their respective estates at such assessment, forever; and he declares to the *talookdars, zemindars*, and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed, (unless the farmers shall voluntarily consent to make over to them the remaining term of their leases, and the Governor General in Council shall approve of the transfer,) but that at the expiration of that period, or in the event of any such farmer, or farmers, forfeiting his or their leases by falling in arrear, or otherwise, such proprietors of land shall be reinstated, on their agreeing to the payment of the assessment which may be required of them, or, (according to the nature of the case,) to the conditions with respect to the arrear that may be due, as specified in clause first, Section 18, Regulation VI. 1795, and no alteration shall afterwards be made in the said fixed annual assessment, but such proprietors of land, and their heirs, and lawful successors, shall be allowed to hold their respective estates at such assessment, for ever.

Jumma at which lands belonging to Government may be transferred to individuals, declared fixed for ever.

III. In the event of the proprietary right in lands, that are or may become the property of Government, being transferred to individuals; such individuals, and their heirs, and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred, for ever.

Proprietors expected to improve their estates, in consequence of the profits being secured to them.

IV. *First.* The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty, that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs, or successors, by the present, or any future Government, for an augmentation of the public assessment, in consequence of the improvement of their respective estates.

Conduct to be observed by the proprietors of land towards their *putteedars*, under-renters, and *ryots*.

Second. To discharge the revenue at the stipulated periods, without delay or evasion, and to conduct themselves with good faith and moderation towards their *putteedars*, under-renters, and *ryots*, are duties at all times indispensably required by Government from the proprietors from whom the revenue is immediately receivable; and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued. The Governor General in Council therefore expects, that the aforesaid proprietors of land, will not only act in this manner themselves towards their *putteedars*, under-renters, and *ryots*, but also enjoin the strictest adherence to the same principles, in the persons whom they may appoint to collect the rents from them, in whatever instances there may be occasion for such delegation of trust.

Government to enact such regulations as they may think necessary for the welfare of the *putteedars*, under-renters, *ryots*, and cultivators; and proprietors not to withhold the revenue on that account.

V. *First.* It being the duty of the ruling power to protect all classes of people, and more particularly those who from situation are most helpless; the Governor General in Council, whenever he may deem it proper, will enact such regulations as he may think necessary for the protection and welfare of the *putteedars*, under-renters, *ryots*, and other cultivators of the soil, and no *talookdar*, *zemindar*, or other proprietor of land, shall be entitled on this account, to make any objection to the discharge of the fixed assessment, which they may have respectively agreed to pay.

All internal duties that may be hereafter established, to belong exclusively to Government.

Second. the Governor General in Council having on the 26th December 1787, directed the *sayer* collections to be abolished, and a subsequent settlement having been made with the proprietors of land, exclusive of the articles of collection given up by that abolition; he now declares, that if he shall hereafter think it proper to re-establish the *sayer* collections, or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment, on that account.

Jumma that may be assessed on alienated lands held under invalid titles, to belong exclusively to Government.

Third. The Governor General in Council will impose such assessment as he may deem equitable, on all lands at present alienated, and paying no public revenue, which have been or may be proved, to be held under illegal or invalid titles. The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

Police lands eventually resumable by Government.

Fourth. The jumma of those *zemindars*, *talookdars*, and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, the produce of any lands set apart for the maintenance of *pheris*, *passees*, *ghorites*, or other description of watchmen, employed in services of police; and the Governor General in Council reserves to himself the option of resuming the whole or part of the produce of such lands, should he at any time hereafter think fit to exonerate the proprietors of the land from being responsible for the peace, and to appoint officers on the part of Government, to perform the duties relating to the police now required from them. The Governor General in Council however declares, that the produce of lands which may in that case be resumed, will be appropriated to no other purpose but that of defraying the expence of the police, or providing a maintenance for the *pheris*, *passees*, *ghorites*, or other description of watchmen, employed therein.

Allowances that may be so resumed, not to be added to the *jumma*, but to be collected separately, and applied solely to the police.

Estates of dispossessed proprietors, not liable to sale for arrears of assessment, accruing whilst they are deprived of the management of them.

Fifth. Nothing in this or any other regulation, shall be construed to render the lands, of which there are dispossessed proprietors, liable to sale, for any arrears which have accrued, or may accrue, on the *jumma* that has been or may be assessed upon their lands, under the regulations for the quartennial and decennial settlements, provided

vided that such arrears have accrued, or may accrue, during the time that they have been, or may be, dispossessed of the management of their lands. It is to be understood however, that whenever all or any of the descriptions of dispossessed landholders, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their dispossession no longer existing, or of the Governor General in Council dispensing with, altering, or abolishing those regulations, the lands of such proprietors will be held responsible for the payment of the *jumma* that has been or may be assessed upon them in perpetuity, from the time that the management may devolve upon them.

Proprietors declared privileged to transfer their lands, without the sanction of Government.

VI. That no doubt may be entertained, whether proprietors of land are entitled under the existing regulations to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the *talookdars*, *zemindars*, and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper, by sale, gift, or otherwise, their proprietary right in the whole, or any portion of their respective estates, without applying to Government for its sanction to the transfer; and that all such transfers will be held valid, provided that they be conformable to the Mahomedan or Hindoo laws, (according as the religious persuasions of the party or parties making such transfer, may render the validity of it determinable by the former or the latter code,) and that they be not repugnant to any regulations now in force, which have been passed by the British administrations, or to any regulations that they may hereafter enact.

Provided the transfer be conformable to law, and not contrary to any existing regulation.

Rules for apportioning the fixed *jumma* on portions of estates, in the event of their being disposed of at public sale, or transferred by the proprietors, and on shares of estates divided amongst the joint proprietors, upon the transfer or division being notified to the collector, or other prescribed officer; and the *jumma* so adjusted, declared fixed for ever.

VII. From the limitation of the public demand upon the lands, the neat income, and consequently the value, (independent of increase of rent obtainable by improvements,) of any landed property, for the assessment on which a distinct engagement has been or may be entered into between Government and the proprietor, or that may be separately assessed, although included in one engagement, with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable, by a comparison of the amount of the fixed *jumma* assessed upon it, (which agreeably to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred,) with the whole of its produce, allowing for the charges of management. But it is also essential, that a notification should be made of the principles upon which the fixed assessment charged upon any such estate, will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one or in two or more lots, or of its being joint property, and a division of it being made among the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed *jumma*, with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands, would be but partially obtained. The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves, be notified to the collector of the revenue, or such other officer as Government may in future prescribe, in order that the fixed *jumma* assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the *jumma* charged thereon, may be entered upon the public registers, and that separate engagements for the payment of the *jumma* assessed upon each share, may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land. And the Governor General in Council declares, that if the parties to such transfers or divisions, shall omit to notify them to the collector of the revenue of the province, or such other officers as may be hereafter prescribed, for the purposes before mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed *jumma* assessed upon it, in the same manner as if no such transfer or division had ever taken place.

First. In the event of the whole of the lands of a *zemindar*, *talookdar*, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the regulations above mentioned, being exposed to public sale by order of the Governor General

General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a court of justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce. This produce shall be ascertained in the mode that is or may be prescribed by the existing regulations, or such other regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his, or her, or their heirs, and lawful successors, shall hold them at the *jumma* at which they may be so purchased, for ever.

Second. When a portion of the lands of a *talookdar*, *zemindar*, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the regulations before mentioned, shall be exposed to public sale by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a court of justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce. If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount, which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce. The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one lot, or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing regulations, or such other regulations as the Governor General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his, or her, or their heirs, or successors, will be allowed to hold them at the *jumma* at which they may be so purchased, for ever; and the remainder of the public *jumma*, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his, or her, or their possession, will continue unalterable, for ever.

Third. When a *talookdar*, *zemindar*, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons, in joint property, by private sale, gift, or otherwise; the assessment upon each distinct portion of such estate so transferred, shall be fixed at an amount, which shall bear the same proportion to its actual produce, as the assessment upon the whole of the estate of the transferring proprietor of which the whole or a portion may be so transferred, may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed in the existing regulations, or such other regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his, or her, or their heirs, and lawful successors, shall hold them at the *jumma* at which they may be transferred, for ever; and where only a portion of such estate shall be transferred, the amount of the remainder of the public *jumma*, which will consequently be payable by the former proprietor of the whole estate on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

Fourth. Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share, shall be fixed at an amount, which shall bear the same proportion to its actual produce, as the fixed *jumma* assessed upon the whole of the estate divided, may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed by the existing regulations, or such other regulations as the Governor General in Council may hereafter adopt, and the sharers, and their heirs, and lawful successors, shall hold their respective shares at the *jumma* which may be so assessed upon them, for ever.

Lands of ancient proprietors standing dispossessed under Section 12, Regulation II. 1795, not to be liable to be disposed of at public sale.

VIII. Nothing in this or any other regulation, passed previous to, or on, this date, shall be construed to authorise the public sale of the lands in any *talookdaree*, or *zemindaree*, whilst the party or parties, claiming the same as the ancient proprietors, continue to stand excluded under the limitation specified in Section 12, Regulation II. 1795; or until by the operation of the repeal of that limitation under Section 3, Regulation I. 1795, or in pursu-

ance of the consequent provision in Section 18, Regulation VI. 1795, or some other consonant rule, made, or that shall hereafter be made, in consequence of the said repeal, such party or parties shall have been restored to the management of the revenue of his or their respective *talookdarees*, or *zemindarees*.

Rules regarding putwarees.

*IX**. First. *The annual revenue to be paid to Government from the estates of the proprietors of land, with whom a settlement has been or may be concluded, having been declared fixed for ever; and courts of justice having been established, with powers to protect them against all demands exceeding that fixed revenue, whether made by the officers of Government, or other persons, or by the authority of Government itself; and on the other hand, the grounds on which deductions and abatements were heretofore occasionally obtained by proprietors of estates, when their* jumma *was liable to frequent variation, no longer existing; neither their rights, nor the value of their property, can be affected in future, by the real produce of their estates being known. The rules therefore hereafter prescribed regarding* putwarees, *which are framed solely to facilitate the decision of suits in the courts of judicature, between proprietors and farmers of lands, and persons paying rent or revenue to them, and to guard against any diminution of the fixed revenue of Government, or injustice to individuals, by enabling the collectors to procure the necessary information and accounts, for alloting the public* jumma *upon estates that may be divided, agreeably to the principles prescribed in this regulation, can be objected to by those proprietors only, who may have it in contemplation, in the event of the division or transfer of a portion of their estates, to deprive Government of a part of the fixed revenue, or defraud some of the partners in their estates, by obtaining a disproportionate allotment of the public assessment on the several shares, or to oppress the persons paying rent or revenue to them with impunity, by withholding from the courts of justice the documents necessary to enable them to afford redress to the complainants. It being essential to the security of the public revenue, as well as of private rights and property, and at the same time consistent with the ancient usages of the country, that means should be devised for counteracting all or any of such unjustifiable views either in proprietors or farmers, the following rules have been adopted.*

Proprietors and farmers, to appoint a putwaree, *to keep the accounts in each village.*

Second. *Every proprietor or farmer of land, who may not have established a* putwaree *in each village in his or her estate or farm, to keep the accounts of the* ryots, *shall immediately appoint a* putwaree *in each village for that purpose. All proprietor or farmers of estates, are to deposit in the* dewanny adawlut, *in the jurisdiction of which the land may be situated, the collector's* cutcherree, *and the principal* cutcherree *in each* mohaul *or* pergunnah, *a list of the* putwarees *in their respective estates, or farms, and the names of the villages, the accounts of which they may be severally appointed to keep. The proprietors and farmers are to notify every three months to the court, and the collector, all vacancies that may occur, and the names of the persons whom they may appoint to fill them. The Board of Revenue are empowered to authorize any proprietor or farmer to reduce the number of* putwarees, *in such proportion as they may think proper, in cases in which it may appear to them unnecessary to entertain a separate* putwaree *for each village.*

Board of Revenue may authorize proprietors and farmers to reduce the number of putwarees.

Putwarees to produce all accounts required by the courts of judicature.

Third. *The* putwarees *in every estate, are to produce all accounts relating to the lands, produce, collections, and charges, of the village or villages, the accounts of which may be kept by them respectively, and to furnish every information and explanation that may be required regarding them, whenever they may be demanded by any court of justice, to adjust any suit that may be depending before the court, between the proprietor or farmer of the estate, and the* ryots, *or any persons, paying rent or revenue to them, or any other suit.*

and also for the allotment of the public revenue in the cases herein specified, when required by the collector.

Fourth. *The* putwarees *in each estate, shall also produce the accounts specified in the preceding clause, and furnish every explanation and information that may be required respecting them, for the allotment of the public revenue, agreeably to the principles laid down in this regulation, in the event of the whole or any portion of the estate being directed to be disposed of at public sale, or being transferred by any private act of the*

* The whole of this section is rescinded by Sect. 2, Regulation XII. 1817.

proprietor or proprietors, or of the estate being ordered to be divided pursuant to a decree of a court of judicature, or, where it may be a joint estate, in consequence of the request of one or more of the proprietors. But the collector is not to require a putwaree *to attend him and produce his accounts, but for the purposes above mentioned, or in any other cases in which he may be expressly empowered to require them, by any regulation, printed and published in the manner directed in Regulation XLI. 1793, extended to Benares by Regulation I. 1795; and, if the collector shall require the* putwaree *of any village or villages, to attend him and produce the village accounts for purposes, or in cases, in which he may not be authorized to inspect them, the court of* dewanny adawlut, *upon the circumstances being represented to it by the proprietor or farmer of the estate, is empowered to make an order to prohibit the collector requiring the accounts, and in the event of his repeating the requisition, to adjudge him to pay a fine to the proprietor or farmer of the estate, of such sum as to the court may appear proper, and to levy the fine in the mode in which the courts are empowered to levy fines from the collectors, in the suits described in Section 39, Regulation VI. 1795.*

Cases in which the collector is prohibited requiring accounts from putwarees, *and*

penalty for breach of the prohibition.

Fifth. *When a collector shall require the attendance of a* putwaree *for the examination of his accounts, either before him, or any officer whom he may depute for the purpose, he is to serve such* putwaree *with a written notice, under his official seal and signature, to attend with the accounts required, which are to be particularized in the notice. If he shall omit to attend with the accounts by the limited time, and shall not show good cause to the collector for the omission, the collector is authorized to represent the circumstances, through the* vakeel *of Government, to the court of* dewanny adawlut *of the zillah, the judge of which, provided there shall appear to him sufficient cause for so doing, may order such* putwaree *to be committed to close custody until he produces the accounts. The courts are to observe the same process with* putwarees *who may omit to attend with their accounts, when required, for the adjustment of any matter or dispute before the courts.*

How the collector and the courts, are to compel the attendance of putwarees.

Sixth. Putwarees *shall be required to swear to the truth of the accounts they may produce, when deemed necessary, and in the event of the collector having occasion to proceed in person, or to depute an officer to examine any village accounts on the spot, the judge, upon application being made to him for that purpose by the collector, through the* vakeel *of Government, may grant to him or to such officer, a commission to swear the several* putwarees *whose accounts are to be inspected, inserting in the commission the name of each* putwaree *to be sworn. If the collector shall have occasion to examine the accounts of a* putwaree, *at the station at which the court may be established, he is to cause him to be sworn before the court, if he shall judge it necessary to require him to make oath to the truth of his accounts.*

Putwarees *shall be required to swear to the truth of their accounts.*

Seventh. *If a* putwaree *who shall have sworn to the truth of any account, that he may have been required to produce before a court of justice, for the purpose of deciding any matter before the court, and the accounts shall afterwards be found to have been fabricated, or altered, or not to be the true accounts, the judge of the court is empowered to commit him to be tried for perjury before the court of circuit.*

Putwarees *liable to be prosecuted criminally for swearing to false accounts in a court of judicature.*

Eighth. *If a* putwaree *shall have been sworn before a judge, or before a collector, or the officer of a collector, to any accounts that he may have been required to produce before the collector, or his officer, in a case in which the collector may have been empowered to require him to produce such accounts, and the accounts shall afterwards appear to have been fabricated, or altered, or not to be the true accounts, the collector is empowered to employ the* vakeel *of Government to prosecute such* putwaree *for perjury. In the cases specified in this and the preceding clause, if it shall be proved to the satisfaction of the court, that the accounts were fabricated, altered, or changed, by the orders, or with the knowledge or connivance, of the proprietor or farmer of the estate, the court shall impose such fine upon the proprietor or farmer so offending, as may appear to it proper, upon a consideration of the case, and the situation and circumstances of the offender.*

or, before the collector, or his officer.

Punishment for proprietors or farmers concerned in falsifying the accounts.

Ninth. *Upon the accounts of any village being ordered to be produced, if it shall be found that no* putwaree *has been appointed to keep the accounts of the* ryots, *in conformity*

How proprietors or farmers omitting to appoint putwarees, are to be proceeded against.

mity to the rules prescribed in clause second; the court, provided it be a case in which the requisition of the accounts may be authorized, shall fine the proprietor or farmer for the first offence, in such sum as it may judge proper, upon a consideration of his or her situation and circumstances, and the nature of the case; and for the second offence, twice the amount of the fine for the first; and for the third, and every subsequent offence, double the amount of the fine for the preceding one. If the accounts shall have been required by the collector, he is to order the vakeel *of Government to sue the proprietor or farmer on the part of Government under this section, for a breach of the rule in clause second.*

Definition of the term proprietor or actual proprietor of land.

X. For the sake of precision, it is hereby declared, that wherever the term proprietor, or actual proprietor of any *talook*, *semindaree*, village, or other land paying revenue to Government, is or may be used, in this or any other regulation extending to the province of Benares, and printed and published in the manner prescribed in Regulation XLI. 1793, such term is to be considered as applying to the person or persons holding under each separate lease or *pottah* from Government, (whether he or they possess the entire proprietary right in such lands, or shall be only the principal amongst other *putteedars*, distinct or common,) whose name or names standing inserted in such *pottahs*, and who having executed the counterpart *cobooleats*, has or have thereby become immediately responsible to Government, as well for the payment of the revenue, as for the performance of the other stipulations and conditions contained in the quartennial and decennial deeds of settlement, without however affecting or prejudicing the rights, distinct or common, of any *putteedars* or sharers, where any such shall exist, and which, in case of dispute with the *pottahdars* or holders of the *pottahs*, are to be determined by the courts of *adawlut*, according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice, and the laws, customs, and usages of the district, as referred to in Regulation II. 1795, as far as regards the parties in question.

A. D. 1795. REGULATION L.

A REGULATION *for prohibiting Talookdars, Zemindars, or other Proprietors of Land paying Revenue, in the Province of Benares, from fixing the Jumma of dependant Tenants, (whether Zemindars, or Putteedars,) or granting Leases or Pottahs for a Term exceeding ten Years; and, in Cases of Lands being disposed of at public Sale for the Discharge of Arrears of the public Revenue, for rendering null and void all Engagements, (with certain Exceptions,) subsisting between the defaulting Proprietor, and his dependant Zemindars, Putteedars, Under-farmers, and Ryots, for the Payment of Rent or Revenue on account of the Lands so sold.*—PASSED *by the Governor General in Council, on the 28th of August* 1795; *corresponding with the* 14*th Bhadoon* 1202 *Bengal era; the* 28*th Bhadoon* 1202 *Fussily; the* 14*th Bhadoon* 1202 *Willaity; the* 28*th Bhadoon* 1852 *Sumbut; and the* 12*th Suffer* 1210 *Higeree.*

Preamble.

THE public demand upon the estates of the proprietors of land, with whom a settlement has been or may be concluded under the original regulations for the quartennial and decennial settlements, having been declared fixed for ever; it is to be apprehended that many proprietors, either from improvidence, ignorance, or with a view to raise money, or from other causes or motives, may be induced to dispose of dependant *zemindarees*, or other tenancies, to be held at a reduced *jumma*; or fix the *jumma* of such dependant tenancies of this description as now exist in their respective estates, at an under rate; or let lands in farm, or grant *pottahs* for the cultivation of land at a reduced rent, for a long term, or in perpetuity. Such engagements, if held valid, would leave it in the power of weak, improvident, or ill-disposed proprietors, to render their property of little or no value to their heirs; promote vice and injustice; occasion a permanent diminution of the resources of Government arising from the lands, in the event of the rent or revenue reserved by such proprietors, being insufficient for the discharge of the amount of the public demand upon their estates; be an abuse of the great and lasting benefit which has been conferred upon the landholders, by the possession of their lands being secured to them in perpetuity at a fixed assessment; and moreover, be repugnant to the ancient and established usages of the country, according to which the dues of Government from the lands, (which consist of a certain proportion of the annual produce of every *beegha* of land, demandable, according to the local custom, in money or kind, unless Government has transferred its right to such proportion to individuals for a term or in perpetuity, or fixed the public demand upon the whole estate of a proprietor of land, leaving him to appropriate to his own use the difference between the value of such proportion of the produce, and the sum payable to the public, so long as he continues to discharge the latter,) are unalienable without its express sanction. It is at the same time essential that *talookdars* and proprietors of land, should have a discretionary power to fix the revenue payable from their dependant tenancies, and to grant leases, or fix the rents of their lands, for a term sufficient to induce their dependant *zemindars*, under-farmers, and *ryots*, to extend and improve the cultivation of their lands, and that such engagements should be held inviolable in all cases, excepting where they may interfere with or affect in any shape the

primary and indefeasable rights of Government. Upon the above ground, and as the proprietors of land previous to the quartennial and decennial settlement being declared perpetual, were not entitled to enter into any engagements with their dependant *zemindars, putteedars,* under-farmers, or *ryots,* for a period extending beyond the term of their own engagements with the public; the Governor General in Council has enacted as follows.

No jumma *of dependant tenancies to be fixed, nor farms or* pottahs *granted, for a term exceeding ten years.*

II. No* talookdar, zemindar, *or other actual proprietor of land, nor any person on their behalf, shall dispose of a dependant tenancy to be held at the same or at any* jumma, *or fix at any amount the* jumma *thereof for a term exceeding ten years, nor let any lands in farm, nor grant* pottahs to ryots *or other persons for the cultivation of lands, for a term exceeding ten years. Nor shall it be lawful for any* talookdar, zemindar, *or other actual proprietor of land, who may have entered into an engagement with any dependant* zemindar, *fixing the* jumma *of his tenancy for a term not exceeding ten years, or let any lands in farm, or granted* pottahs *for the cultivation of lands for a term not exceeding ten years, to renew such engagement, lease,* or pottah, *at any period before the expiration of it, excepting in the last year, at any time during which, it shall be lawful for the parties to renew such engagement, lease,* or pottah, *upon the same or any other terms for a period not exceeding ten years, calculating from the expiration of the year in which such renewal may take place. All evasions of the prohibitions contained in this section, by entering into two separate engagements, leases,* or pottahs, *at the same time; dating an engagement, lease,* or pottah, *subsequent to the period at which it may have been actually executed; or by any other device; shall be considered as an infringement of them; and every engagement fixing the* jumma *of a dependant tenancy, and every lease,* or pottah, *which has been or may be concluded, or granted, in opposition to such prohibitions, is declared null and void.*

Engagements for ten years or less, not renewable at any period during the term of them, except in the last year.

All evasions of this rule null and void.

All engagements, leases, and pottahs, *which have been or may be granted repugnant to this section, declared void.*

III†. Where a division of a joint estate shall be made at the request of the proprietors, or pursuant to the decree of a court of justice, the fixed public revenue assessed upon the whole estate, shall be apportioned on the several shares, agreeably to the principles prescribed in Section 7, Regulation XXVII. 1795, without regard to any engagements that may subsist between the proprietors and their dependant tenants, under-farmers, or ryots. *But the sharers shall not demand from the dependant tenants, under-farmers,* or ryots, *in their respective shares, any sum beyond the amount specified in the engagement, lease,* or pottah, *which may have been entered into between them and the proprietors jointly previous to the division of the estate, provided that such engagement, lease,* or pottah, *be not repugnant to the rules prescribed in Section 2, and such dependant tenants, under-farmers,* or ryots, *shall duly perform their part of it; but it shall remain in full force, excepting in the event of the lands being disposed of at public sale for the discharge of arrears of the public assessment,) until the term of it shall have expired.*

Existing engagements between talookdars, *or other proprietors, and their dependant* zemindars, *under-farmers, and* ryots, *if conformable to this regulation, not to be affected by divisions of the estate made pursuant to judicial decrees, or the request of the joint proprietors.*

IV. If the whole or a portion of any estate, shall be transferred by public sale, (excepting it be so disposed of for the discharge of arrears of the public revenue,) or by private sale, gift, or otherwise, or devolve to any person upon the death of the former proprietor, according to the Hindoo or Mahomedan law of inheritance, the person or persons to whom the lands shall be so transferred, or may so devolve, shall not demand from the dependant tenants, under-farmers, or ryots, *in the lands transferred, any sum beyond the amount specified in the lease,* pottah, *or other engagement, for the payment of rent or revenue, which may have been entered into between them and the former proprietor previous to the transfer, or devolution, provided that such engagement be not repugnant to the rules prescribed in Section 2, and that such dependant tenants, farmers,* or ryots, *duly perform their part of it, but it shall remain in full force until the term of it shall have expired.*

Engagements above mentioned not to be affected by the transfer of the lands by public sale, (except for arrears of revenue,) or by any private act of the proprietors.

V. Whenever the whole or a portion of the lands of any *talookdar, zemindar,* or other actual proprietor of land, shall be disposed of at public sale for the discharge of arrears of the public assessment, all engagements which such proprietor shall have contracted with dependant tenants, whose tenancies may be situated in the lands sold, as also all leases to under-

When lands are sold to make good arrears of public revenue, all engagements subsisting between the proprietors and their dependant *talookdars,* farm-

* This section is rescinded by Section 2, Regulation V. 1812.

† Sections 3 and 4, are rescinded by clause one, Section 3, Regulation XVIII. 1812.

farmers, and *pottahs* to *ryots* for the cultivation of the whole, or of any part of such lands, (with the exception of the engagements, *pottahs*, and leases, specified in Section 7,) shall stand cancelled from the day of sale, and the purchaser or purchasers of the lands, shall be at liberty to collect from such dependant tenants, and from the *ryots*, or cultivators of the lands let in farm, and the lands not farmed, whatever the former proprietor would have been entitled to demand, according to the established usages and rates of the *pergunnah* or district in which such lands may be situated, had the engagements so cancelled never existed.

ers, and ryots, on account of such lands to be null and void.

Exception to the rule.

VI. Nothing contained in this regulation shall be construed to prohibit any *talookdar*, *zemindar*, or other actual proprietor of land selling, giving, or otherwise (as far as he may be legally competent) disposing of any part of his lands as a dependant tenancy, whether as a *zemindaree* or *putteedaree*.

This regulation not to prohibit proprietors from disposing of dependant tenancies.

VII. Nor to prohibit actual proprietors of land granting without the sanction of Government, or its officers, to any person not being a British subject, or a European, a lease or *pottah* for ground, for any term of years, or in perpetuity, for the erection of dwelling-houses, or buildings for carrying on manufactures, or other purposes, and for offices for such houses or buildings, or for gardens.

Nor to prohibit grants or leases for any term for the purposes herein specified, except to British subjects and Europeans.

A. D. 1795. REGULATION LI.

A REGULATION *respecting Ryotee Pottahs in the Province of Benares.*—PASSED *by the Governor General in Council on the* 28*th August* 1795; *corresponding with the* 14*th Bhadoon* 1202 *Bengal era; the* 28*th Bhadoon* 1202 *Fussily; the* 14*th Bhadoon* 1202 *Willaity; the* 28*th Bhadoon* 1852 *Sumbut; and the* 12*th Suffer* 1210 *Higeree.*

Preamble.

TO prevent undue demands being made on the *ryots*, or cultivators of the soil, by the *aumils*, *zemindars*, farmers, or others, entitled to levy from them the *hakimee* or Government's proportion of the produce, *ameens* were deputed by the resident at Benares on the 12th February 1795, to cause *pottahs* to be granted to the *ryots* agreeably to certain forms, by which their payments were to be regulated. For reasons hereafter stated, these *ameens* were recalled before they had completed the issue of the prescribed *pottahs*. The instructions to these officers, with alterations and additions, calculated for the more effectual accomplishment of the object of those instructions, are now enacted into a regulation, and are to be considered as the rules respecting *ryotee pottahs* throughout the districts in the province of Benares to which the settlement concluded by the resident extended.

Measures adopted to cause *bilmokta pottahs* to be granted to *ryots*.

II. *First.* Orders were repeatedly issued to the *aumils* and *canoongoes* to cause the *zemindars* and farmers to issue to their *ryots bilmokta pottahs*, (i. e. *pottahs* with the *maal* and *abwab* consolidated,) for the *nekdy* or money part of the rent payable to them, and to specify therein, where the rent is estimated according to the produce, the mode of the *betay* or division of the crop, and also the proportions in which the division was to be made, (viz. whether in equal proportions, or in the proportions of seven to nine, or of five to two, or of two to one, or according to whatever local *zebtaneh* or custom might be prevalent in each place;) and the *aumils* were also repeatedly enjoined to issue similar *pottahs*, in those parts of the *pergunnahs* which continued *amaunee*. There being ground to believe, however, that notwithstanding these orders, the prescribed *pottahs* had not been duly issued, *ameens* were deputed on the 12th of February 1795, to cause them to be granted, throughout all that part of the four *sircars*, to which the general settlement had extended. The *ameens* thus deputed, were accordingly furnished with instructions to cause the *talookdars*, *zemindars*, and farmers, in the *mushukhusy mozahs*, or villages, for which a settlement had been concluded, and the *aumils*, in the villages which remained *amaunee*, to grant the prescribed *pottahs* to the *ryots* and cultivators in conformity to a draft prepared for the purpose; the *pottahs* to be granted to every *ryot* and cultivator, in the *mushukhusy* villages, to specify with precision, the rate of payment according to the two last years, as far as regarded the *nekdy*, or money part thereof; and also the modes and proportion of the *betay*, where the payments of the *ryots* were estimated in kind, or upon the produce; and in the event of the rates to be thus inserted in the *pottahs* being any where disputed between the *aumils* or *malgoozars* on the one part, and the *ryots* on the other, such disputed rates were directed to be regulated and adjusted, on reference to the accounts of the *putwarees*, and with the assistance of the *canoongoes*; so that, consideration being had to the present condition of the ground, and the cast of the cultivator, the *bilmokta rye* or rate, inclusive of *maal* and *abwab*, on account of such ground, might be fixed at the same rate as that at which a cultivator of the same cast would have been assessed for it, in the Fussily year 1187.

Second.

Pottahs for *mootry* tenures.

Second. Under these instructions, where the custom of *mootry*, (or the payment of one general rate for different kinds of ground and of crop,) was found to prevail, the *ameens* were directed to continue it, and even to endeavour to extend it, wherever the parties concerned might voluntarily agree to its adoption.

Nekdy or money rent *pottahs* for tenures not *mootry*.

Third. In *pottahs* issued for a money rent, with the exception of those granted for *mootry* tenures, the number of *beeghas*, the description of *beegha*, (viz. whether the *beegha* computed by the rod of three *dirrahs ilahee*, the *beegha* of the measure prevalent in the *pergunnah*, or the *dherawat*, or *beegha* ascertained by estimate,) and the *bilmokta rye* or consolidated rate of assessment on each of such *beeghas*, were directed to be specified, so as to preclude the necessity of superadding to such rate the *kesraut*, or difference of rate proportionate to the variation in the extent of the several descriptions of *beeghas*. For this purpose it was ordered, that the *malgoozars* and *ryots*, with the assistance of the opinions of the *canoongoes*, and the approbation of the *ameens*, should fix at once the *bilmokta rye*, or consolidated rate, in one sum, in proportion to the extent of the *beegha*, leaving it to the parties to determine on which of these three descriptions of *beeghas* the calculation of the *rye* should be made, instead of confining them to one description of *beegha*, as had been prescribed by the rule contained in Section 4, Regulation II. 1795.

Mode of obviating the addition of any *kesraut* to the consolidated rate to be inserted in the *ryotee pottahs* in general.

In what instances such *pottahs* might be granted to the *putteedars*.

Fourth. In the event of any of the *putteedars* being desirous of obtaining *pottahs* for the land cultivated by them, the *ameens* were instructed to cause the *pottahdars*, or persons holding *pottahs* of Government, to grant *pottahs*, accordingly, in conformity to the principles above prescribed. But if such *putteedars* should not apply for *pottahs*, the *ameens* were informed that they were not to cause *pottahs* to be granted to them, but were to leave them to continue to pay as formerly, i. e. subordinately to, and in conjunction with, their principals.

How these *pottahs* were to be granted and attested.

In the *mushukhusy*, and in the *amaunee* lands.

Fifth. In the *mushukhusy* lands, these *pottahs* were directed to be issued with the concurrence of the *ameen*, and under the signatures of the grantors, (i. e. the *pottahdars* of Government,) and to be attested also by the *canoongoes*. In the villages which were continued *amaunee*, it was directed that the said *pottahs* should be issued by the *aumils*, under their signature, and the attestation of the *canoongoes*, and that they should also be countersigned by the *ameens*: as for the future, the *aumils* neither had, nor were to possess, any authority to augment or diminish the rental of Government, their duties being limited to the realizing of the fixed revenue; the preservation of the peace throughout their respective limits; and the execution of such orders as might occasionally be addressed to them.

In reference to the duties of the *aumils* under the settlement.

Rules for adopting and distinguishing in the *pottahs* the different denominations of culture and of *beeghas*.

Sixth. The *zeyl* or detailed particulars, annexed to the form of *pottah*, with which the *ameens* were furnished, contained an enumeration of the different modes of *ryotee* payments, whether of *mootry*, *nekdy*, *herkowla*, or *betay*, and of *purtee*, *keel*, and *jungle*, &c. one or other of which should necessarily be found applicable to the land and circumstances of every cultivator; and it was pointed out to the *ameens*, that the *pottahs* of those *ryots* only whose cultivation was carried on agreeably to the practice termed *mootry*, and no other, were to specify the amount of the rent annexed to their *pottahs* under that single head only; whilst in instances in which *ryots* cultivated not only on *mootry*, but also on *nekdy* and *betay* agreements, this form of *pottah* also prescribed how the particulars of the *zeyl* were under such circumstances to be subjoined; at the same time that it comprehended under the several heads of cultivation, a specification of the denomination of *beegha*, in order that as all the three descriptions of *beeghas* particularized in clause third, were more or less in use in the province, it might be left to the option of the *malgoozars* and *ryots*, to adopt in their engagements whichever of these three standards they might prefer, the *ameens* being required only to see that the description of *beegha* agreed on should in every instance be specified.

General form of *pottah*.

Seventh. The following is a translate of the general form of *pottah* with which the *ameens* were furnished:

"A *pottah* of engagement and stipulation in the name of —— according to the *zeyl*, without *abwab* or *serf*; the *foteh* or rent for the entire year of the cultivation, shall be taken *bilmokta*, or according to one rate; and exclusive of that, neither a *daam* or *dherm* shall be taken."

ZEYL OR ANNEXED SPECIFICATION OF RENT.

Nekdy or money rent.

1st. *Mootry* 12 *beeghas* (either of 3 *dirrah ilahee*, or *pergunnah beeghas*, or *dherawat* or estimated *beeghas*.) at 3 Rs. 2 annas per *beegha*, Rs. 37 8 0

2d. *Kwyraur*, &c. (being for the more valuable articles of cultivation,) 13 *beeghas* (whether of 3 *dirrah ilahee*, or *pergunnah* measurement, or *dherawat*,) viz.

Sugarcane, 10 *beeghas* at 5 Rs. 1 An. per *beegha*,	50	10	0
Tobacco, 2 *beeghas* at 6 Rs. per *beegha*,	12	0	0
Mooles or vegetables, 1 *beegha* at 2 Rs. 1 An. per *beegha*,	2	1	0
	64	11	0

and where from the change in the cultivation, a new *pottah* shall become necessary, it shall be granted according to the rates of the two last years, with the privity of the *canoongoes*, according to the *shirabundy*, or established rates of the *pergunnah*, and I (the *zemindar* or farmer,) shall certainly not object to give a *pottah*.

3d. *Herkowla* or for common *nekdy* cultivation 12 *beeghas* (either the 3 *dirrah ilahee*, or of *pergunnah* measurement, or of *dherawat*,) at different rates.

1st 2 *beeghas*	at	1	8	3	0	0
2d 3 *beeghas*	at	1	12	5	4	0
3d 3 *beeghas*	at	1	4	3	12	0
4th 2 *beeghas*	at	1	0	2	0	0
5th 1 *beegha*	at	1	2	1	2	0
6th 1 *beegha*	at		12	0	12	0
				15	14	0

Bhawullee or betay, i. e. where the ren is in proportion to the crop

The *beegha* to be of 3 *dirrah ilahee* measurement, or *pergunnah*, or *dherawat* measurement, and the rent to be assessed by *kunkoot* or appraisement; either at half and half, or 9 to 7, or 5 to 2, or 2 to 1, according to the local usage, and the money assessment thereon to be according to the current market price, as fixed for each harvest by Government.

Purtee, and *keel*, and *jungle* land, according to the good-will of the parties—either on a *nekdy* or *betay* engagement.

III. *First.* On the departure of these *ameens*, the strongest assurances were published to all the *zemindars* and farmers, that the object of their deputation, was solely to ensure from them, that justice to their *ryots*, which Government had bound itself to observe to them by concluding with them a permanent settlement, the conditions of which would on no account be infringed. A considerable degree of jealousy, however, was manifested by the *zemindars* and farmers during the progress of the *ameens*; several of whom represented the difficulties which they experienced in the execution of their instructions, both from the above and other causes. These difficulties are stated in the following clauses, with a view to future eventual arrangements.

Precaution taken on the departure of the *ameens* to apprise the landholders of the object of their deputation, and points ascertained during their progress.

Second. The *ameen* in the *tuppah* of Ophroude, in the *pergunnah* of Chourassy, represented, that several places in that *tuppah* were without *putwarees*; and as similar complaints were received from other parts of the district, the *ameens* were in reply directed to cause the proprietors, and farmers, to appoint *putwarees* wherever they were wanted, and in the mean time, to oblige the *gomashtahs* of the said proprietors or farmers, or the officers entertained for keeping such written or other village accounts as are kept, to produce them to the courts of judicature, or to the collector, in the instances in which either are empowered by the regulations to require them.

Rule in case of no *putwarees* being kept in an estate or farm.

Third. Several *ryots* in the *pergunnah* of Chownsa, and other parts, who had been used to divide the grain with the *zemindar* or farmer in the mode called *agore*, according to the produce, would not take *pottahs* specifying either any rent per *beegha*, or even the number of *beeghas* which they cultivated; circumstances that are adverted to, and in some measure provided for, in Section 21, Regulation II. 1795.

Refusal of certain descriptions of *ryots* to take *pottahs*.

Fourth. The *ameen* in the *tuppah* of Kone, in the *pergunnah* of Chourassy, represented, that sundry *zemindars* had mortgaged a part of their lands to other *zemindars*, and had in consideration thereof, given them *pottahs* at lower rates than the established ones, so as merely to prove equal to the payment of Government's *jumma*; whilst the mortgagees caused the grounds in question to be cultivated by other *ryots*, from whom they took the usual

How *pottahs* are to be issued from tenants on mortgage tenure to the *ryots*.

usual rate of rent. The *ameens* desired instructions whether they should cause *pottahs* to be given to these mortgagees, according to those which they held from the *zemindars*; or, whether the *pottahs* should be issued at such rates as the mortgagees exacted from the *ryots*. In reply to this application, the *ameens* were directed to cause *pottahs* of the lastmentioned description to be issued to the *ryots*, not however by the proprietors, but by the mortgagees; and they were further informed, that this rule was to be observed in all similar cases.

Mode of *zemindars* and farmers attempting to conceal the funds in their estates, by pretended exorbitant grants to the *putwarees*.

Fifth. It appearing by a representation from the *ameen* at Mureeahoo, that the *zemindars* and farmers concealed the revenue lands in their occupancy, by pretending to have assigned them in larger proportions than was ever usual, to the *putwarees*, for their maintenance, or otherwise; the *ameen* was instructed not to admit of this abuse, but to cause *pottahs* to be issued for all grounds over and above the usual quantity granted to the *putwarees* for their maintenance in their official situations.

Difficulty in respect to *betay pottahs* from the custom of superadding *abwab* to be proportionably levied on the valuation of the crop.

Sixth. The *ameen* in the *pergunnah* of Baleeah represented, that although his instructions required that the rate of rent should be fixed *bilmokta*, or in one sum, there were circumstances which rendered the observance of this rule in some instances impracticable; such as various *abwabs* proportionally added in the *betay ryotee* tenure to the money result of the *jumma* or valuation of the crop, according to the market prices of grain; these *abwabs* being often at the rate of one anna or of two annas per rupee, on the valuation of the crop, on account of *batta*; and perhaps, of three annas for the *dehkherch* per *beegha*; whilst in several other villages, these articles of *batta* and *kherch*, were levied uniformly at a certain rate per rupee, on the amount of the valuation of the crop, as aforesaid. That it was therefore evident, that these money rates could not be taken into account, so as to admit of their amount being ascertained in a *betay pottah*, farther than by fixing their proportional rates in the rupee on the amount of the valuation of the crop, or on the *beegha* of the cultivation, as the local custom might in either case require. This *ameen* was accordingly instructed to confine himself to the insertion of these proportionate rates of *abwabs*.

Respecting the small *beegha* in the *pergunnah* of Kureendeh.

Seventh. It appeared that in sundry villages in the *pergunnah* of Kureendeh, it had been and continued the custom amongst the *malgoozars* and *assamees*, (i. e. the *zemindars* or farmers, and the *ryots*,) to carry on their cultivation, and keep their accounts, according to the practice termed by them *cucha dherawut gortaur*, that is, where the *beeghas* are measured by steps, of which one *beegha* is equal only to eight *pukhta biswas*; and two and a half of *cucha beeghas* to one *pukhta beegha*. The *ameen* in that *pergunnah*, having hereon reported, that the *ryots* in such places could not be made, without great difficulty, to comprehend the advantage of calculating by the *pukhta*, instead of the *cucha beegha*, directions were given that their own customs should be continued, on condition that the description of the *beegha*, and the mode of measurement, should be clearly specified in the *pottahs* to be granted in such places.

Preference assigned to the *serberahkars* above the *zemindars* in Kureendeh, in respect to signing the *ryots' pottah*.

Eighth. In the said *pergunnah* of Kureendeh, it was on the same day ordered, in reply to a query from the *ameen*, that where the *serberahkars*, or managers, (mentioned in Section 17, Regulation II. 1795,) were on terms of good understanding with the *zemindars*, they might, if they pleased, affix their signatures to the *pottahs* to be granted to the *ryots*; but that wherever it became a question which of them should have the preference, it must be allowed to the *serberahkar*, as long as the latter remained responsible for the revenue.

Mode of raising the public revenue of the village, by the inhabitants joining in an assessment on their crops, so as to prove equivalent to the demand of Government.

Ninth. The same *ameen* having reported, that in Pchaurpoor, and some other villages in Kureendeh, he had issued the *pottahs*, in the terms of his instructions, although in fact it had been and still was customary for the *zemindars*, *putteedars*, and other *chuppurbund assamees* or *ryots*, to meet together, and lay on such a money assessment on the Government's half of the grain, as might make up the public revenue; it was thereupon ordered, that those who preferred this mode might adhere to it, and even have this condition inserted in their *pottahs*, without the stipulation that such assessment should be founded on the market price, as is the rule in general, for all other places.

Further motive for the refusal to accept of *pottahs*.

Tenth. The *ameen* in the *pergunnah* of Mohammedabad, reported that certain persons in that district, claiming to be the descendants of the ancient *zemindars* of villages now rented to farmers, refused to receive *pottahs* for the ground which they cultivated from the latter, alleging that they should thereby suffer degradation.

IV. The deputation of the *ameens*, and their proceedings, having been reported to the Governor General in Council, he observed in his reply of the 26th June 1795, that difficulties similar to those stated by the *ameens* in Benares, had been experienced in enforcing the regulations regarding *pottahs* in the other three provinces. That in many places, the *ryots* had omitted to take out *pottahs*, or objected to receive those tendered to them agreeably to the regulations; and that, owing to the variation in the rates in the different *pergunnahs* and districts, and other local circumstances, disputes had been occasioned where both the proprietor and the cultivator of the lands were before satisfied with the rates of assessment that had been mutually agreed upon between them. That the rules regarding *pottahs* contained in Regulation IV. 1794, for the provinces of Bengal, Behar, and Orissa, had in consequence been passed, under which, if any dispute arose between a proprietor or a farmer of land, and a *ryot*, regarding the rates of *pottahs*, the latter, by application to the court of judicature, could always obtain a *pottah* at the ancient and established rates of the districts; and that where no such dispute subsisted, the interference of Government was of course unnecessary. That from these considerations, and as the variations in the rates in the different districts, and in the quality of the lands in Benares, might render it extremely difficult for the *ameens* to fix the rates and the terms of the *pottahs* to the satisfaction of both parties, and as there might be considerable danger of their often favouring one or other of them, the Governor General in Council directed the *ameens* to be recalled, and ordered that rules similar to those contained in Regulation IV. 1794, should be adopted in Benares, it being presumed that the operation of them would gradually lead to the defining and fixing the rates to be paid for land in the different districts and villages, where any dispute might subsist respecting them; without incurring the inconveniencies liable to arise from attempting to effect this object at once by the deputation of *ameens*.

Government's order to recal the *pottah ameens*.

V. In pursuance of the directions in the preceding section, the *pottah ameens* were recalled on the 8th of July 1795; and with respect to the progress which they made in granting *pottahs*, wherever it shall appear that they have caused *pottahs* to be granted in deviation from the letter and spirit of the instructions under which they acted, such *pottahs* are to be deemed invalid, and are to be so adjudged in any court of justice; whilst, on the other hand, the operation of those in which the parties have acquiesced are to be admitted. This last mentioned rule can be productive of no injury to either party, as all the *pottahs*, with the exception of those for the *mootsy* tenures, are liable to annual renewal, in consequence of the alteration that unavoidably takes place in the annual cultivation of the *ryots*.

Recal of the *pottah ameens*, and remark as to the decree of validity or otherwise of *pottahs* issued under their instructions.

VI. On the recal of the *ameens*, they were directed to make it known, that it was expected and required of the *talookdars*, *zemindars*, and farmers, that they should complete the issuing of the *pottahs* to their *ryots*, in the form and manner required in Section 2. The proprietors and farmers of land are accordingly hereby allowed until the expiration of the Fusaily year 1204, for granting these *pottahs*; and after that period, no engagements for rent (exclusive of the exceptions in the cases specified in clauses third, ninth, and tenth, Section 3, the usages detailed in which are to be admitted,) contrary to those ordered in that section, or such other as the collector, with the sanction of the Governor General in Council, may prescribe, shall be held valid; and the parties prosecuting under such informal engagements, shall be nonsuited with costs.

Further period allowed for the distribution of *pottahs*.

VII. To provide against the *ryots* refusing or omitting to take out or receive *pottahs*, although the persons from whom they are entitled to demand them, be ready to grant them in the form and on the terms that now are, or may be hereafter prescribed by this or any future regulation, it is declared, that if a proprietor or farmer of land shall fix up in the principal *cutcherrees*, in his estate, or farm, a notification in writing under his seal and signature, specifying that *pottahs* according to the form prescribed in clause seventh, Section 2, or such other form as the collector with the sanction of the Governor General in Council shall have approved, and at the established rates, will be immediately granted to all *ryots* who may apply for them, and stating where, and when, and by whom, the *pottahs* will be delivered; the notification shall be considered as a legal tender of a *pottah*, and the proprietor of land or the farmer, shall be deemed to have complied with the order; and the persons so tendering *pottahs* shall be entitled to recover the rents due to them from such *ryots*, as fully and effectually to all intents and purposes, as if there existed written engagements between the parties.

Rules for cases in which *ryots* omit or refuse to take out the prescribed *pottahs*.

All new forms of *pottahs* to be registered in the city or *zillah* courts, and copies to be deposited in each of the principal *cutcherrees*.

VIII. The approbation of the collector in respect to the *pottahs*, is to be considered to extend to the form only; as far as regards which, he is, under the orders of Government, authorised either to adhere to that contained in clause seventh, Section 2, or to adopt such other forms as the local circumstances of the district may in any part thereof render more expedient. But in all cases of deviation from the form aforesaid, the collector is to signify his approbation of the new form of *pottah* introduced, by superscribing it with his name and official appellation; and thereupon, he is to register a copy of such form or forms in the *dewanny adawlut* of the city, or *zillah*, within the jurisdiction of which such *pottahs* are to be issued; and to cause a copy thereof to be deposited in each of the principal *cutcherrees* of the estate, or farm, or *talooka* in which such *pottahs* are to be granted.

Rules for determining the disputes regarding the rates of *pottahs* to be granted to the *ryots*.

IX. If a dispute shall arise between the *ryots*, and the persons from whom they may be entitled to demand *pottahs*, regarding the rates of the *pottahs*, (whether the rent be payable in money or kind,) it shall be determined in the *dewanny adawlut* of the city, or *zillah*, in the jurisdiction of which the lands may be situated, according to the rules established in the *pergunnah*, or *tuppah*, or *talooka*, for lands of the same description and quality, and for the same cast of cultivators, as those respecting which the dispute may arise.

Rules applicd to the renewal of *pottahs* that may expire or become cancelled.

X. The rules in the preceding section, are to be considered applicable not only to the *pottahs* which the *ryots* are entitled to demand in the first instance, but also to the renewal of *pottahs* which may expire or become cancelled; and it is declared that no proprietor or farmer of land, nor any other person, shall require *ryots*, whose *pottahs* may expire or become cancelled, to take out new *pottahs* at higher rates than the established rates of the *pergunnah*, for lands of the same quality and description; due consideration being had, as far as may be required by the custom of the district, to the alteration of the species of culture and the cast of the cultivator. Under this rule, *khodkast* or *chupperbund ryots*, will be entitled to have their *pottahs* renewed at the established rates, upon making application for that purpose to the person by whom the *pottahs* are to be granted, as are also *paykast ryots*, provided the proprietor or farmer chooses to permit them to continue to cultivate the land, which they have the option to do or not as they may think proper on the expiration of all *paykast* leases; whereas *khodkast ryots* cannot be dispossessed as long as they continue to pay the stipulated rent.

Distinction as to the permanency of tenure between the *khodkast* and *paykasht ryots*.

A. D. 1803. REGULATION XXX.

A REGULATION *prescribing Rules for the Grant of Pottahs by the Landholders, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, to their Under-farmers, Tenants, and Ryots.*—PASSED *by the Governor General in Council, on the 24th of March* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

WHEREAS it is declared, in the proclamation published on the 14th of July 1802, by the Honorable the late Lieutenant Governor and the Board of Commissioners in the provinces ceded to the Honorable the English East India Company by the Nawaub Vizier, relative to the settlement of the land revenue in those provinces, and in Section 53, Regulation XXVII. 1803, that all persons who may enter into engagements with Government, for the public revenue, shall bind themselves to grant *pottahs* to their under-renters and *ryots*, in which all authorized *abwabs* shall be consolidated with the land rent, (or *asnul jumma*,) and expressed in a gross sum; that counter engagements shall be executed by the *ryots* and under-renters, of a similar tenor, and that nothing but what is therein expressed shall be collected from the *ryots*, or under-renters, of whatever description: And whereas it is essential to the mutual rights and interests of *zemindars* and other landholders, and farmers of land, and of their under-renters, tenants, and *ryots*, that the terms and conditions of all engagements entered into between them, for the payment of rents, should be clearly and specifically defined, whereby the courts of justice, in all cases of exaction, evasion, or litigation, may be enabled to ascertain and determine the exact amount demandable: And whereas it is necessary, with the view of effecting the important objects above stated, that rules should be prescribed for regulating the grant of *pottahs* in such cases; the following rules have been accordingly enacted for this purpose.

Actual proprietors to let their lands, under the prescribed restrictions, in whatever manner they may think proper.

II. Every *zemindar*, or other actual proprietor of land, or farmer of land, who may have entered into engagements with Government for the public revenue of his *zemindaree*, or other estate, or farm, shall be at liberty to let the lands of his *zemindaree*, or other estate, or farm, under the restrictions prescribed by this regulation, and by any other regulation published in conformity to Regulation I. 1803, in whatever manner he shall think proper, consistently with the rights of the dependant *talookdars*, *ryots*, or other descriptions of under-tenants, and cultivators of the soil; but every engagement contracted with dependant *talookdars*, under-renters, tenants, and *ryots*, or tenants of whatever denomination, shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land, or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount.

Subject to certain restrictions.

III. No person contracting with a *zemindar*, independent *talookdar*, or other actual proprietor or farmer of land, or employed by him in the management of the collections, shall be authorized to take charge of the lands or collections without an *aumilnamah*, or written commission, signed by such *zemindar*, independent *talookdar*, or other actual proprietor or farmer of land.

The delivery of *pottahs* under this regulation, to be completed by the expiration of the Fussily year 1215.

IV. The impositions upon the *ryots*, under the denomination of *abwaub*, *muthote*, and other appellations, from their number and uncertainty, being intricate to adjust, and a source of oppression to the *ryots*, all proprietors and farmers of land were required, by the proclamation published on the 14th of July 1802, by the Honorable the late Lieutenant Governor and the Board of Commissioners in the ceded provinces, to consolidate the whole of the authorized *abwaubs* with the *assul jumma*, and to grant *pottahs* to their under-renters and *ryots* for a specific sum. As a sufficient period of time will have elapsed, during the second triennial settlement of the land revenue in the ceded provinces, (which will expire with the Fussily year 1215,) to enable the proprietors and farmers of land to complete the adjustment and delivery of *pottahs* for the whole of their lands, in the mode prescribed; the expiration of the Fussily year 1215 is hereby declared to be the period fixed for the general delivery of *pottahs* as hereafter specified.

Proprietors, and farmers of land, prohibited imposing any new *abwaub* or *muthote* on the *ryots*, and penalty in case of disobedience.

V. No actual proprietor of land, or dependant *talookdar*, or farmer, or tenant of land, of whatever description, shall impose any new *abwaub* or *muthote* upon the *ryots*, under-tenants, or cultivators, under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered, that new *abwaub* or *muthote* have been imposed, the person imposing and receiving the same shall be liable to this penalty, for the entire period of such impositions.

Variations of *pottah* according to articles of produce admitted under certain restrictions.

VI. It is expected, that, in time, the proprietors of land, dependant *talookdars*, and farmers of land, and the *ryots*, will find it for their mutual advantage to enter into agreements in every instance for a specific sum, for a certain quantity of land, leaving it to the option of the latter to cultivate whatever species of produce may appear to them likely to yield the largest profit. Where, however, it may be the established custom to vary the *pottah* rent for lands, according to the articles produced thereon, and the actual proprietors of land, dependant *talookdars*, or farmers of land, and *ryots*, in such places, shall prefer an adherence to this custom, the engagements entered into between them shall specify the quantity of land, species of produce, rate of rent, and amount thereof, with the term of the lease; and a stipulation, that, in the event of species of produce being changed, a new engagement shall be executed for the remaining term of the first lease, or for a longer period, if agreed on; and, in the event of any new species being cultivated, a new engagement, with the like specification and clause, shall be executed accordingly.

What the *pottahs* to be delivered to the *ryots* are to contain.

VII. *First.* The rents to be paid by the *ryots*, by whatever rule or custom they shall be regulated, shall be specifically stated in the *pottah*, which, in every possible case, shall contain the exact sum to be paid by them.

Rule where the rate only can be specified, and for payments in kind.

Second. In cases where the rate only can be specified, such as where the rents are adjusted upon a measurement of the lands after cultivation, or on a survey of the crop; or where they are made payable in kind; the rate and terms of payment, and proportion of the crop to be delivered, with every condition, shall be clearly specified.

Proprietors of land to prepare forms of *pottahs*. *Ryots* entitled to corresponding *pottahs*, on application for the same.

VIII. Every *zemindar*, independent *talookdar*, or other actual proprietor of land, and every dependant *talookdar* and farmer of land, shall prepare the form of a *pottah* or *pottahs*, conformably to the rules above prescribed, and adapted to the circumstances of his estate, *talook*, or farm; and every *ryot* shall be entitled to receive corresponding *pottahs*, on application for the same.

Rules for determining disputes regarding the rates of *pottahs* to be granted under this regulation.

IX. If a dispute shall arise between the *ryots*, or other under-tenants, and the persons from whom they may be entitled to demand *pottahs*, regarding the rates of the *pottahs*, (whether the rent be payable in money or kind,) it shall be determined in the court of *adawlut* of the *zillah* in which the lands may be situated, according to the rates established in the *pergunnah* for lands of the same description and quality as those respecting which the dispute may arise, or according to the legal and established rights of the parties: whether the same be ascertainable by written engagements, or defined by the laws and regulations; or defined upon general or local usage, which may be proved to have existed from time immemorial; this regulation not being meant to define or limit the actual rights of any description of landholders or tenants, which can be properly ascertained and determined by judicial investigation only.

X. The rules in the preceding section shall be considered applicable, not only to the *pottahs* which the *ryots* and other under-tenants are entitled to demand in the first instance, under the proclamation published by the late provisional Government in the ceded provinces dated the 14th July 1802, under the eleventh and twelfth clauses of Section 53, Regulation XXVII. 1803, and under this regulation, but also to the renewal of *pottahs* or leases which may expire or become cancelled under Regulation XLVII. 1803.

Rule in the preceding section applied to the renewal of *pottahs* that may expire or become cancelled under Regulation XLVII. 1803.

XI A *ryot*, when his rent has been ascertained and settled, may demand a *pottah* from the actual proprietor of land, dependant *talookdar*, or farmer, of whom he holds his lands, or from the person acting for him; and any refusal to deliver the *pottahs*, upon being proved in the court of *adawlut* of the *zillah*, shall be punished by the court, by a fine proportioned to the expense and trouble of the *ryot*, in consequence of such refusal. Actual proprietors of land, dependant *talookdars*, and farmers, are also required to cause a *pottah* for the adjusted rent to be prepared and tendered to the *ryot*; either granting such *pottah* themselves, or intrusting their agents to grant the same. No farmer, however, shall grant a *pottah* extending beyond the period of his own lease; nor shall any agent grant a *pottah* without authority from the proprietor or dependant *talookdar*, or the manager of disqualified proprietors.

Ryots may demand *pottahs* of proprietors of land and farmers, who are also required to grant them.

Penalty in case of refusal.

Restrictions on farmers and agents in granting *pottahs*.

XII. Nothing contained in this regulation shall be construed to authorise any *semindar*, or other actual proprietor of land, or any farmer of land, or any other person whatever, to demand an increase of rent from any *mocurrereedar*, *istemraardar*, or other description of under-tenant of land, who, at the period of the cession of the Nawaub Vizier to the English East India Company, on the 10th of November 1801, shall have been entitled to hold his tenure at a fixed annual rent, and shall have actually held the same at a fixed, invariable, amount, for twelve complete years before that period. On the contrary, any such under-tenants, provided they shall clearly establish, that, by the conditions of their tenures, they were not liable to any increase of rent, and that they actually paid a fixed, annual rent during the above period, are hereby declared exempt from all enhancement of their fixed rent by any proprietor or farmer of land, or by any officer of Government, during the continuance of their tenures, according to the terms and conditions thereof.

Restrictions relative to the assessment of certain descriptions of *istemraardars*, who are to be considered as leaseholders.

A. D. 1803. REGULATION XLVII.

A REGULATION *for prohibiting the fixing the Jumma of dependant Talooks, or granting Leases or Pottahs for a Term extending beyond the Term of the Lease of the Lands held by the Grantor of the Pottah; or, in Cases in which the Grantor shall hold his Lands on a fixed Jumma in perpetuity, for prohibiting the granting of Leases or Pottahs for a Term exceeding ten Years; and, in Cases of Lands being disposed of at public Sale for the Discharge of Arrears of public Revenue, for rendering null and void all Engagements (with certain Exceptions) subsisting between the defaulting Proprietor and his dependant Talookdars, Farmers, and Ryots, for the Payment of Rent or Revenue on Account of the Lands so sold; in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.*—PASSED *by the Governor General in Council, on the* 24*th March* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

WHEREAS it is declared, in Section 29, Regulation XXV. and in Section 53, Regulation XXVII. 1803, that a settlement of the land revenue of the provinces ceded to the English East India Company by the Nawaub Vizier shall be immediately made with the *zemindars* and other proprietors of land who shall be willing to engage for the revenue of their respective estates; and that a permanent assessment shall be fixed at the end of ten years on such lands as shall be in a state of cultivation sufficiently advanced to render it proper to fix the assessment on the same in perpetuity: And whereas it is declared, in Section 34, Regulation XXVII. 1803, that the proprietary rights of all *zemindars*, *talookdars*, and other descriptions of landholders, possessing a right of property in the lands composing their *zemindaries*, *talooks*, or other tenures are confirmed and established under the authority of the British Government, in conformity to the laws and usages of the country, and to the regulations which have been, or shall be hereafter, enacted by the Governor General in Council: And whereas it is to be apprehended, that many proprietors, either from improvidence, ignorance, or with a view to raise money, or from other causes or motives, may be induced to dispose of dependant *talooks* to be held at a reduced *jumma*; or fix the *jumma* of such dependant *talooks* as now exist in their respective estates, at an under rate; or let lands in farm, or grant *pottahs*, for the cultivation of land, at a reduced rent, for a term extending beyond the term of the settlement made with the grantor of such *pottahs*, or in perpetuity: And whereas by allowing such engagements to be valid, weak, improvident, or ill-disposed proprietors would possess the means of rendering their property of little or no value to their heirs; vice and injustice would be promoted; a permanent diminution would be occasioned in the resources of Government, arising from the lands, in the event of the rent or revenue reserved by such proprietors being insufficient for the discharge of the amount of the public demand upon their estates; the great and permanent benefit proposed to be conferred upon the landholders, by the possession of their lands being ulti-

mately secured to them in perpetuity at a fixed assessment, would be perverted to purposes of abuse and of injury to the state; and an infringement would be made in the ancient and established usage of the country, according to which the dues of Government from the lands (consisting of a certain proportion of the annual produce of every *beegha* of land, demandable according to the local custom in money or kind, unless the Government shall have transferred its right to such proportion to individuals for a term or in perpetuity, or shall have fixed its demand upon the whole estate of a proprietor of land, leaving him to appropriate to his own use the difference between the value of such proportion of the produce and the sum payable to the Government, so long as he continues to discharge this sum) are unalienable without its express sanction: And whereas, rules having been prescribed by Regulation XXX. 1803, for the grant of *pottahs* by the landholders in the provinces ceded by the Nawaub Vizier to the English East India Company, to their under-farmers, tenants, and *ryots*, it is, at the same time, necessary that proprietors of land should possess a discretionary power to fix the rent payable by their dependant *talookdars*, and to grant leases, or fix the rents of their lands for a term sufficient to induce their dependant *talookdars*, under-farmers, and *ryots*, to extend and improve the cultivation of their lands, and that such engagements should be held inviolable, excepting in cases in which they may interfere with, or affect in any shape, the primary and indefeasible rights of Government: And whereas the proprietors of land, previously to the settlement for the revenues of their respective estates being declared perpetual, are not entitled to enter into any engagements with their dependant *talookdars*, under-farmers, or *ryots*, for a period extending beyond the term of their own engagements with the Government; the Governor General in Council has enacted as follows.

Jumma of dependant *talooks*, or other land tenure, not to be fixed, nor farms or *pottahs* granted, for a term extending beyond the term of the engagements of proprietors of land with Government, until a permanent settlement shall be concluded.

II. *First.* No *zemindars*, independent *talookdars*, or other actual proprietors of land, after having engaged for the triennial, quarternial, or other periodical assessment of their estate, under the proclamation specified in Section 29, Regulation XXV. 1803, and the further provisions stated in that regulation, and under Regulation XXVII. 1803, nor any persons on their behalf, shall dispose of a dependant *talook*, or other land tenure of whatever denomination, to be held at the same or at any *jumma*, or shall fix, at any amount, the *jumma* of an existing dependant *talook*, or other land tenure, for a term extending beyond the term of their own existing engagements with Government, nor let any lands in farm, nor grant *pottahs* to *ryots* or other persons for the cultivation of lands, for a term extending beyond the term of their own lease from Government. This rule and prohibition shall be considered to be in force, until a permanent settlement shall be concluded, under the regulations above mentioned; and any lease or engagement, given or received, in opposition thereto, shall be void and of no effect, as far as regards the amount of rent thereby illegally stipulated, but without affecting any other rights which the parties respectively may possess, or to which they may be entitled.

Nor for a term exceeding ten years, after a permanent settlement shall be concluded.

Second*. *No* zemindars, *independent* talookdars, *or other actual proprietors of land, with whom a permanent settlement shall be hereafter concluded, for the fixed and perpetual assessment of their respective estates, under the provisions specified in Regulations XXV. and XXVII.* 1803, *nor any persons on their behalf, shall dispose of a dependant* talook, *or other land tenure, to be held at the same or at any* jumma, *or fix at any amount, the* jumma *of an existing dependant* talook, *or other tenure, for a term exceeding ten years; nor let any lands in farm, nor grant* pottahs, *to* ryots *or other persons, for the cultivation of land, for a term exceeding ten years. Nor shall it be lawful for any* zemindar, *independent* talookdar, *or other actual proprietor of land, who may have entered into an engagement with any dependant* talookdar, *fixing the* jumma *of his* talook *for a term not exceeding ten years, or let any lands in farm, or granted* pottahs *for the cultivation of lands for a term not exceeding ten years, to renew such engagement, lease, or* pottah, *at any period before the expiration of it, (with the exception specified in the following clause,) excepting in the last year, at any time during which it shall be lawful for the parties to renew such engagement, lease, or* pottah, *upon the same or any other terms, for a term not exceeding ten years, calculated from the expiration of the year in which such renewal may take place. All evasions of the prohibitions contained in this clause, by entering into two separate engagements, leases, or* pottahs, *at the same time; dating an engage-*

Nor shall it be lawful (with the following exception) to renew engagements entered into conformably to this regulation before the expiration of them, excepting in the last year. All evasions of this rule null and void.

* Rescinded by Section 2, Regulation V. 1812.

ment,

ment, lease, or pottah, *subsequent to the period at which it may have been actually executed; or by any other device; shall be considered as an infringement of them; and every engagement, fixing the* jumma *of a dependent* talookdar, *or other tenant of land, and every lease or* pottah *which has been or shall be concluded or granted, in opposition to such prohibitions, is declared to be null and void, as far as respects the* jumma *or rent thereby illegally stipulated; but without affecting any other rights which the parties respectively may possess, or to which they may be entitled.*

All engagements, leases, and pottahs, *which have been or may be granted repugnant to this section, declared void.*

Third. Nothing contained in the foregoing clause shall be considered as restricting *zemindars*, independent *talookdars*, or other actual proprietors of land, with whom a permanent settlement shall be concluded, from cancelling engagements into which they may have entered with any dependant *talookdar* for a term not exceeding ten years, at any time during such engagements, or from granting a new lease to such dependant *talookdar* for a period not exceeding ten years from the date of cancelling the former engagements; provided the parties concerned shall be mutually desirous of cancelling the former lease, and of entering into a new one for a term not exceeding ten years, and shall voluntarily consent to the same; and provided further, that the transaction shall not be founded in collusive or fraudulent motives, intended to affect the rights or interests of Government, or of any person or persons. Whenever it shall appear that a former lease has been cancelled, and that a new lease has been granted, before the commencement of the last year of the former lease, without the mutual consent of the parties concerned, or that the parties had been influenced by collusive or fraudulent motives in entering into new engagements of the above nature, such engagements are declared to be null and void, and the former engagements shall be restored, subject to the operation of the regulations relating to them.

Engagements may be renewed, and new leases granted, before the commencement of the last year of the lease, in certain cases.

III. Where a division of a joint estate shall be made, at the request of the proprietors, or pursuant to the decree of a court of justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares, agreeably to the principles prescribed in Section 37, Regulation XXV. 1803, without regard to any engagements which may subsist between the proprietors and their dependant *talookdars*, under-farmers, *ryots*, or other under-tenants of whatever description. But the sharers shall not demand from the dependant *talookdars*, under-farmers, or *ryots*, or other under-renters, in their respective shares, any sum beyond the amount specified in the engagement, lease, or *pottah*, which may have been entered into between them and the proprietors jointly, previously to the division of the estate, provided that such engagement, lease, or *pottah*, be not repugnant to the rules prescribed in Section 2, and such dependant *talookdars*, under-farmers, *ryots*, or other underrenters, shall duly perform their part of it; but it shall remain in full force (excepting in the event of the lands being disposed of at public sale for the discharge of arrears of the public assessment) until the term of it shall have expired.

Existing engagements between proprietors and their dependant *talookdars*, under-farmers, and *ryots*, if conformable to this regulation, not to be affected by divisions of the estate made pursuant to judicial decrees, or the request of the joint proprietors.

IV. If the whole or a portion of any estate shall be transferred by public sale, (excepting it be so disposed of for the discharge of arrears of the public revenue,) or by private sale, gift, or otherwise; or shall devolve to any person, upon the death of the former proprietor, according to the Hindoo or Mahomedan law of inheritance; the person or persons to whom the lands shall be so transferred or may so devolve, shall not demand from the dependant *talookdars*, under-farmers, *ryots*, or other under-tenant, in the lands transferred, any sum beyond the amount specified in the lease, *pottah*, or other engagement, which may have been entered into between them and the former proprietor, previously to the transfer, or devolution; provided that such engagement be not repugnant to the rules prescribed in Section 2, and that such dependant *talookdars*, farmers, *ryots*, or other under-tenants, duly perform their part of it; but it shall remain in full force until the term of it shall have expired.

Engagements above mentioned not to be affected by the transfer of the lands by public sale, (except for arrears of revenue,) or by any private act of the proprietors.

V. Whenever the whole or a portion of the lands of any *zemindar*, independent *talookdar*, or other actual proprietor of land, shall be disposed of at public sale, for the discharge of arrears of the public assessment, all engagements which such proprietor shall have contracted with dependant *talookdars*, or other dependant landholders, whose *talooks*, or tenures, may be situated in the lands sold, as also all leases to under-farmers, and *pottahs* to *ryots*, for the cultivation of the whole or any part of such lands, (with the exception of the *pottahs*, and leases, specified in Section 7. of this regulation,) shall stand cancelled from the day of sale,

When lands are sold to make good arrears of public revenue, all engagements subsisting between the proprietors and their dependant *talookdars*, farmers, and *ryots*, on account of such lands, to be null and void.

Exception to the rule.

sale, provided the public sale for arrears of assessment shall have taken place before the expiration of the second month of the current Fussily year; or from the commencement of the ensuing year, in case such public sale shall have taken place at any time after the second month of the current year; and the purchaser or purchasers of the lands, in all such cases, shall be at liberty to collect from such dependant *talookdars*, or other dependant landholders, and from the *ryots* or cultivators of the lands let in farm, and the lands not farmed, whatever the former proprietor would have been entitled to demand, according to the established usages and rates of the *pergunnah* or district in which such lands shall be situated, had the engagements so cancelled never existed; provided, however, that all dependant *talookdars*, or other dependant landholders, and all *ryots* or cultivators of land, whose leases and *pottahs* may become cancelled by a public sale, on account of arrears of assessment, under this section, shall be entitled to receive and to demand from the purchaser new *pottahs*, in conformity to the tenth and eleventh articles of the proclamation published by the Honourable the late Lieutenant Governor and the Board of Commissioners in the ceded provinces, under date the 14th of July 1802, with the eleventh and twelfth clauses of Section 53, Regulation XXVII. 1803, and under the rules prescribed in Regulation XXX. 1803, or any other regulation which may be hereafter passed, for the protection and welfare of dependant *talookdars*, *ryots*, and other cultivators of the soil, in pursuance of the first clause of Section 35, Regulation XXV. 1803.

Rule for the renewal of *pottahs* which may become cancelled under this section.

Proprietor or farmers not to demand an increase of rent from under-tenants, except in certain cases.

VI. *First.* Provision is made, in Section 12, Regulation XXX. 1803, for preventing any increase of assessment being demanded from any *mocurrerecdar*, *istemrardar*, or other description of under-tenant of land, who at the period of the cession of the Nawaub Vizier to the English East India Company, on the 10th of November 1801, shall have been entitled to hold his tenure at a fixed annual rent, and shall have actually held the same at a fixed, invariable amount, for twelve complete years before that period. It is accordingly hereby declared, conformably to the above provision, that no *zemindar*, or other actual proprietor of land, or farmer of land, or any other person whatever, shall demand an increase of rent from any dependant *talookdar*, or other description of under-tenant of land dependant on him, although he should himself be subject to the payment of an increase of *jumma* to Government, excepting upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the under-tenant holds his tenure; or that the under-tenant, by receiving abatements from his *jumma*, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Penalty for proprietors or farmers making exactions from under-tenants.

Second. If in any instance it be proved, that a *zemindar*, or other actual proprietor of land, or farmer of land, has exacted more from an under-tenant than he is entitled to, the court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit to the party injured.

This regulation not to prohibit proprietors from disposing of dependant *talooks*.

VII. Nothing contained in this regulation shall be construed to prohibit any *zemindar*, independent *talookdar*, or other actual proprietor of land, selling, giving, or otherwise disposing of, any part of his lands as a dependant *talook*, under the notification contained in Section 37, Regulation XXV. 1803; but such transfer will not be allowed, in any case, to affect the rights or claims of Government.

Nor to prohibit grants or leases for any term for the purposes herein specified, except to British subjects and Europeans.

VIII. Nor to prohibit actual proprietors of land granting, without the sanction of Government or its officers, to any person, not being a British subject or a European, a lease or *pottah* for ground for any term of years, or in perpetuity, for the erection of dwelling houses, or buildings for carrying on manufactures, or for other purposes, and for offices for such houses or buildings, or for gardens.

A. D. 1805. REGULATION V.

A REGULATION *for forming the Settlement of the Land Revenue of the Provinces ceded to the Honorable the English East India Company by the Nawaub Vizier, for the Years* 1213, 1214, *and* 1215, *of the Fussily Era.*—PASSED *by the Governor General in Council, on the* 22*d April* 1805; *corresponding with the* 11*th Bysaak* 1212 *Bengal era; the* 9*th Bysaak* 1212 *Fussily; the* 11*th Bysaak* 1212 *Willaity; the* 8*th Bysaak* 1862 *Sumbut; and the* 21*st Mohurrum* 1220 *Higeree.*

Preamble.

WHEREAS it is prescribed in the second article of the proclamation published by the Honorable the late Lieutenant Governor and the Board of Commissioners for the affairs of the provinces ceded by His Excellency the Nawaub Vizier to the Honorable the English East India Company, (the rules contained in which proclamation have been confirmed, with certain modifications, by Section 29, Regulation XXV. and Section 53, Regulation XXVII. 1803.) that the second triennial settlement of the land revenue in those provinces, commencing with the year 1213 of the Fussily era, shall be concluded with an increase, to be calculated in the proportion of two-thirds of the difference between the annual amount of the first triennial settlement concluded for the years 1210, 1211, and 1212, and the actual yearly produce of the land at the period of the expiration of the said settlement: And whereas the severe drought which generally prevailed in the ceded provinces in the year 1211 has subjected the landholders, and farmers, and cultivators of land, in the said provinces, to considerable losses, and consequently deprived them of the means of extending the cultivation of their lands in a degree sufficient to afford a reasonable expectation, that the produce of the lands will be adequate to the payment of the aforesaid increase on the *jumma* of the first triennial settlement: And whereas the demand of the said increase, under such circumstances, might expose the landholders and cultivators to distress, and might prove injurious to the agriculture and commerce of the country in general, and ultimately to the interest of the Government: And whereas the Governor General in Council is at all times desirous of manifesting to the inhabitants of the ceded provinces the solicitude of the British Government for the advancement of their happiness and welfare; the following rules have been enacted.

Rules contained in the second article of the proclamation published, under date the 14th July 1802, for the formation of the second triennial settlement of the revenue in the ceded provinces, commencing with the year 1213, F. S. rescinded.

II. The rules contained in the second article of the proclamation published by the Honorable the late Lieutenant Governor and the Board of Commissioners for the affairs of the provinces ceded by the Nawaub Vizier to the English East India Company, under date the 14th of July 1802, (and confirmed, with certain modifications, by Section 29, Regulation XXV. and Section 53, Regulation XXVII. 1803,) which direct that the second triennial settlement of the land revenue ordered to be concluded in those provinces, and commencing with the year 1213 of the Fussily era, shall be increased in the proportion of two-thirds of the difference between the annual amount of the first triennial settlement concluded for the years 1210, 1211, and 1212, and the actual yearly produce of the land at the period of the expiration of the said settlement, are hereby rescinded; and the following rules are prescribed for concluding the ensuing triennial settlement of the land revenue in the ceded provinces for the years 1213, 1214, and 1215 of the Fussily era.

The following rules prescribed for concluding the ensuing settlement, commencing with the year 1213, F. S.

III. In all instances (with the exceptions specified in Section 7) in which the *semindars*, or other landholders, or the farmers of land, with whom the settlement was concluded for

The settlement for the years 1213, 1214, and 1215, to be concluded with those

landholders and farmers who shall have fulfilled their engagements for the three preceding years, at the annual *jumma* payable by them under the first triennial or other settlement, expiring with the year 1212 F. S.

Landholders and farmers who shall have obtained remissions, and who shall have discharged the *jumma* of their estates or farms, with exception of such remissions, shall be considered to have fulfilled their engagements.

In instances in which the first triennial settlement shall have been concluded at an annual increase, the ensuing settlement shall be concluded at the *jumma* payable for the year 1212.

If any landholder or farmer shall decline entering into engagements for the ensuing settlement, on the terms prescribed by this regulation, the Governor General in Council reserves to himself the power of concluding the settlement with any other person or persons willing to enter into engagements on the prescribed terms.

Settlements actually concluded for any part of the years 1213, 1214, and 1215, to remain in force.

The operation of Section 33, Regulation XXV. 1803, not precluded by any part of this regulation.

for the years 1210, 1211, and 1212 Fussily, or with whom a settlement shall have been concluded at any period of time during those years, shall have fulfilled their engagements with Government, the settlement of their estates or farms, for the ensuing three years 1213, 1214, and 1215 Fussily, shall be concluded with such *zemindars*, landholders, or farmers, at the same annual *jumma* as was payable by them, under the first triennial or other settlement, expiring with the current year 1212 Fussily.

IV. All *zemindars*, or other landholders, or farmers of land, who shall have obtained remissions from Government, on account of drought, or other cause, shall be considered to have fulfilled their engagements, provided they shall have discharged the whole amount of the *jumma* of their respective estates or farms, with the exception of the amount of such authorized remissions.

V. In instances in which the first triennial settlement for the years 1210, 1211, and 1212 Fussily, shall have been concluded at an annual increase, under the orders of the late Lieutenant Governor and the Board of Commissioners, adverted to in clause first, Section 30, Regulation XXV. 1803, instead of an equal, annual *jumma*, as prescribed by the original rules for concluding the settlement of the land revenue in the ceded provinces, the ensuing triennial settlement, for the years 1213, 1214, and 1215 Fussily, shall be concluded at the *jumma* payable on account of the current year 1212 Fussily.

VI. If any *zemindar*, or other landholder, or farmer of land, shall decline entering into engagements for the ensuing triennial settlement, on the terms prescribed by this regulation, the Governor General in Council reserves to himself the power of authorizing the conclusion of the settlement of the lands comprised in the estates or farms of such landholders or farmers, for the years 1213, 1214, and 1215 Fussily, or for any proportion of the said period, with any other person or persons who shall be willing to enter into engagements for the payment of the revenue of the said lands.

VII. Nothing contained in this regulation shall be considered to affect any settlements which shall have been actually concluded for the whole or any part of the ensuing three years 1213, 1214, and 1215 Fussily; neither shall any part of this regulation be construed to preclude the operation of the rule prescribed by Section 33, Regulation XXV. 1803, under which the *zemindars*, independent *talookdars*, and other actual proprietors of land, whose lands have been let in farm, are entitled, at the expiration of the present triennial settlement ending with the year 1212 Fussily, to be reinstated, under the general regulations prescribed for such cases, in the management of their estates, upon their agreeing to the payment of the assessment required from them.

A. D. 1805. REGULATION XVII.

A REGULATION *for modifying the Rules contained in Regulation VIII.* 1793, *respecting the Management of Joint undivided Estates.*—PASSED *by the Vice-President in Council, on the 24th October* 1805; *corresponding with the 9th Kautick* 1212 *Bengal era; the 16th Kautick* 1213 *Fussily; the 9th Kautick* 1213 *Willaity; the 2d Kautick* 1862 *Sumbut; and the 30th Rujab* 1220 *Higeree.*

Preamble.

WHEREAS inconvenience has been experienced in providing for the management of joint undivided estates, under the rules contained in Sections 23, 24, and 25, Regulation VIII. 1793, in consequence of the reluctance manifested generally by the proprietors to elect a manager as prescribed in those rules: And whereas it appears to be most conducive to the convenience of Government, and most conformable to the wishes and sentiments of the proprietors themselves, that they should be left to manage their estates without any local interference on the part of the officers of Government: And whereas any of the joint proprietors of such estates may at any time obtain a division and separation of their respective shares of the lands, whenever they may deem it conducive to their interests to have recourse to that measure; The Vice-President in Council has accordingly passed the following rules, to be in force from the time of their promulgation in the provinces of Bengal, Behar, and Orissa, including Cuttack.

Sections 23, 24, and 25, Regulation VIII. 1793, rescinded; and proprietors of joint undivided estates left to manage them as they may think advisable under the general regulations.

II. Sections 23, 24, and 25, Regulation VIII. 1793, are hereby rescinded; and the proprietors of joint undivided estates shall in future be left to manage their estates in such manner as they may think most advisable, under the general regulations, without any interference on the part of the collector or the Board of Revenue, in the appointment of a manager for the collection of the revenues of the lands from the tenants, farmers, and others.

Estates of such proprietors liable to be sold for arrears as at present, and the proprietors jointly and severally responsible for the revenue.

III. The estates of joint proprietors will of course be liable to be sold, as at present, for the recovery of any arrears which may at any time become due therefrom to Government, and the proprietors themselves shall be considered jointly and severally responsible for the payment of the public revenue assessed upon such estates, should it at any time be necessary to have recourse to a sale of the separate property of any individual sharers, or to the confinement of their persons for the recovery of the arrears due from their estates to Government.

Payments of revenue shall be carried to the account of the estate at large, and not to the account of any individual proprietors.

IV. The payments of revenue shall be carried to the account of the estate at large, and not to the account of any individual proprietor.

The guardians of proprietors of joint undivided estates, who may be disqualified for the management of their own concerns, shall exercise the same powers as could be exercised by the proprietors, if qualified.

V. In cases in which one or more of the proprietors of a joint undivided estate may be minors, or may be otherwise disqualified for the management of their own concerns in consequence of natural defects or infirmities; the guardians of such persons, whether nominated by the will of their parents, or by the *sillah* judges under Regulation I. 1800, shall superintend the interests of such disqualified persons, and shall exercise the same powers in the management of the estate of their wards as could be exercised by the proprietors themselves, were they qualified for the direction of their own affairs.

A. D. 1806. REGULATION XXI.

A REGULATION *for making certain Alterations in the Office of Tehsildar in the Province of Benares, and in the ceded and conquered Provinces, on the Death, Resignation, or Removal of any of the Persons, by whom those Officers are at present held.*—PASSED *by the Governor General in Council, on the* 2*d December* 1806; *corresponding with the* 18*th Aughun* 1213 *Bengal era; the* 6*th Aughun* 1214 *Fusily; the* 18*th Aughun* 1214 *Willaity; the* 7*th Aughun* 1863 *Sumbut; and the* 20*th Ramzaan* 1221 *Higeree.*

Preamble.

WHEREAS it has been deemed advisable, that certain alterations should be made in the office of *tehsildar* in the province of Benares, and in the ceded and conquered provinces, (Cuttack excepted,) on the death, resignation, or removal of any of the persons, by whom those offices are at present held; the following rules have been enacted; to be immediately in force in the province of Benares; in the provinces ceded by the Nawaub Vizier to the Honorable Company; in the conquered provinces in the Dooab, and on the right bank of the river Jumna; and in that part of the territory in Bundlecund, ceded to the Company by His Highness the Peishwah, to which the laws and regulations of this Government have been hitherto extended.

On the death, resignation, or removal of any of the present *tehsildars*, Government will fix the allowances of their successors on a consideration of the amount of the revenue, the extent of the country, or other local circumstances. Rules to be observed by the collectors and magistrates in such cases.

II. Whenever any of the present *tehsildars* in any of the above-mentioned provinces shall die, or shall resign, or shall be removed from office on account of misconduct, under the powers vested in the Governor General in Council by the general regulations, the Governor General in Council will fix the personal allowances which it may be proper to grant their successors, and likewise, the amount which it may be proper to allow to them for the maintenance of establishments, both as receivers of the public revenue, and as officers of police, on a consideration of the amount of the revenue to be collected by such *tehsildars*; of the extent of country comprised within the limits of their respective *tehsildarees*; and of other local circumstances. It shall accordingly be the duty of the collector of the district in which any *tehsildar* may die, or resign, or be dismissed from office, to report to the Governor General in Council, through the Board of Revenue, the amount of the personal salary which the collector would propose to be granted, on the principles above stated, to the new *tehsildar*, and of the establishment which he would propose to be allowed for the collection of the public revenue. The magistrate of the district in which any *tehsildar* may die, resign, or be dismissed from office, shall likewise, at the same time, submit to Government, through the court of Nizamut Adawlut, a statement of the establishment which it may appear necessary to allow to the new *tehsildar* in quality of an officer of police, for the apprehension of public offenders, and for the maintenance of the peace within the limits of his *tehsildaree*.

Tehsildars so appointed shall be vested with the same powers as the present *tehsildars*.

III. *Tehsildars* appointed under the present regulation, shall be vested with the same powers as the present *tehsildars* are, or may be empowered to exercise, both as receivers of the public revenue and as officers of police, under the regulations established in the above-mentioned provinces respectively.

Tehsildars so appointed shall be responsible for the *jumma* of their *tehsildaree* under certain restrictions.

IV. *Tehsildars* appointed under the present regulation, shall be responsible for the *jumma* of the *mohauls* included within their respective *tehsildarees*; provided, however, that if any losses shall be proved to the satisfaction of the Governor General in Council, to have arisen from the impracticability of realising any balances due from *zemindars*, farmers, or others by the sale of their property, or by other legal means: or if the Governor General in Council shall in any particular case deem it just and proper to grant remission in favour of any of the said *zemindars*, farmers, or others; the *tehsildars* shall obtain abatements proportioned to the amount of such losses or remissions. Provided also, that the *tehsildars* shall obtain abatements from the *jumma* specified in their engagements, in proportion to the actual losses which may be proved to the Governor General in Council to have been sustained in lands held *amaunee*.

The salaries and establishments allowed to the *tehsildars* as receivers of the revenue, and for the support of police, how to be paid to them.

V. The personal salary and amount of the establishment which may be granted to the *tehsildars* under the present regulation, as receivers of the public revenue, shall be paid to them by the collectors; and the establishment which may be allowed to the *tehsildars* for the support of the police, shall be paid to them by the magistrates; and the expense incurred on those two accounts, shall be charged to the revenue and judicial departments respectively.

A. D. 1807. REGULATION VII.

A REGULATION *for making certain Alterations in the Provisions which have hitherto been in force in the Province of Benares, respecting Persons paying or wishing to pay their Revenue directly to the Treasury of the Collector, instead of paying it through the Medium of a Tehsildar.*—PASSED *by the Governor General in Council, on the* 16*th April* 1807 *; corresponding with the* 5*th Bysaak* 1214 *Bengal era ; the* 24*th Chyte* 1214 *Fussily ; the* 5*th Bysaak* 1214 *Willaity ; the* 9*th Chyte* 1864 *Sumbut ; and the* 7*th Suffer* 1222 *Higeree.*

Preamble.

WHEREAS it is provided in Section 24, Regulation II. 1795, that whenever the *zemindars* in the province of Benares may wish to become *huzoory*, that is, to pay their revenue directly to the collector's treasury, instead of paying it through the medium of a *tehsildar*, such *zemindars* shall be entitled " to one moiety of the *aumils deyek* and *bhuray* on account of the revenue payable by them for the purpose of enabling them to furnish the required *maul*, *fael*, and *hazer zaminy* or security, for the punctual discharge of their revenue ; for their peaceable deportment ; and for their appearance whenever their attendance may be required ;" And whereas it has been considered to be advisable in future, to dispense with any such security on the *zemindars* becoming *huzoory* ; And whereas the continuance of the above-mentioned provision respecting the moiety of the *deyek* and *bhuray* is consequently no longer necessary, the following rules have been enacted, to be in force from the time of their promulgation in the province of Benares.

Such parts of Section 24, Regulation II. 1795, or any other regulation relating to security for *zemindars* in Benares on becoming *huzoory*, rescinded.

II. Such part of Section 24, Regulation II. 1795, and of any other section of that or of any other regulation in force in the province of Benares, as requires that security shall be taken from the *zemindars* on their becoming *huzoory*, either for their personal appearance, or for their peaceable deportment, or for the punctual discharge of their revenue, is hereby rescinded ; and no such security shall be required or taken in future ; the lands themselves being deemed sufficient security for the public revenue, and the *zemindars* being of course amenable to the general laws of the country, for their peaceable and proper demeanour. Such part of Section 24, Regulation II. 1795, as directs, that the *zemindars* in the province of Benares shall be entitled to a moiety of the *aumils deyek* and *bhuray*, to enable them to furnish the said security, is likewise hereby rescinded.

Zemindars, on becoming *huzoory*, shall have no claim to any part of the *deyek* and *bhuray*.

III. Whenever any *zemindar* shall become *huzoory*, after the promulgation of this regulation, he shall pay the amount of the revenue specified in the engagements contracted by him with Government, directly to the treasury of the collector, and shall not be considered to have any claim upon Government on account of the moiety of the *deyek* and *bhuray* mentioned in the preceding section, or on account of any part thereof.

Zemindars desirous of becoming *huzoory*, shall apply to the collector, who shall comply with the application, if no objection exists. Rules in cases of objection.

IV. Whenever any *zemindar* may be desirous of paying his revenue directly to the collector's treasury, the collector shall immediately comply with the application, unless he may be of opinion, that in consequence of the situation of the lands, or of other circumstances, public inconvenience will be experienced from that arrangement ; in which case, he shall furnish the Board of Revenue with the necessary report on the subject, who are hereby empowered to determine, whether the *zemindar* shall in future pay his revenue directly to the treasury of the collector, or through the medium of the *tehsildar*, as heretofore.

Zemindars becoming huzoory, to be responsible for the apprehension of offenders, and the support of the police within the limits of their estates.

V*. *Whenever a* zemindar *may become* huzoory, *he shall be considered responsible directly to the magistrate for the apprehension of public offenders, and for the support of the police generally within the limits of his estate.* This provision of course supersedes such of the rules at present in force in the province of Benares, as subject the *zemindars* in the discharge of that duty to the control of the *tehsildars*. In other respects, the provisions in question respecting the duties to be performed by the *zemindars* in the maintenance of the peace within their respective estates, and the responsibility which attaches to them on that account, are to be considered to be in full force and effect.

Tehsildars not entitled to the *deyek* and *bhuray* in such estates.

VI. As the *tehsildars* will, by the operation of the foregoing rules, be relieved from all duty and responsibility, with respect to the support of the police within the limits of estates which may henceforward become *huzoory*, they will not of course be considered entitled to any part of the *deyek* and *bhuray* at present receivable by them on account of such estates.

* Part of this section is rescinded by clause 2, Section 2, Regulation XIV. 1807.

A. D. 1807. REGULATION X.

A REGULATION *for the Conclusion of the ensuing Settlement in the ceded and conquered Provinces.*—PASSED *by the Governor General in Council, on the* 11*th June* 1807; *corresponding with the* 30*th Jeyte* 1214 *Bengal era; the* 21*st Jeyte* 1214 *Fussily; the* 30*th Jeyte* 1214 *Willaity; the* 6*th Jeyte* 1864 *Sumbut; and the* 4*th Rubbee-us-Sanee* 1222 *Higeree.*

Preamble.

WHEREAS it has been deemed advisable to appoint a local commission for the superintendence of the ensuing settlement in the ceded and conquered provinces, (excepting the territory assigned for the support of the royal family at Delhi, and the *zillah* of Cuttack, including the *pergunnah* of Puttaspore, and its dependencies,) and for the general control of the collectors, in the discharge of that and of their other public duties: the following rules have been enacted, to be in force from the 17th September next, corresponding with the 2d Assin 1214 Bengal era; the 1st Assin 1215 Fussily; the 2d Assin 1215 Willaity; the 1st Assin 1864 Sumbut; and the 14th Rajeeb 1222 Higeree, being the commencement of the Fussily year 1215.

A commission constituted for superintending the ensuing settlement and the general control of the collectors in the ceded and conquered provinces, with exception to the assigned territory at Delhi and the *zillah* of Cuttack.

II. A commission shall be constituted, consisting of two members, for the superintendence of the ensuing settlement, and for the general control of the collectors in the discharge of their several public duties, in the ceded and conquered provinces, with the exception of the territory assigned for the support of the royal family at Delhi, and the *zillah* of Cuttack.

What duties, powers, and authority to be vested in the commissioners.

III. The commissioners in the ceded and conquered provinces, are hereby vested with all the duties, powers, and authority, which have been hitherto exercised by the Board of Revenue, in the ceded and conquered provinces, with the exception of the district of Cuttack, which shall remain subject to the control of the Board of Revenue as heretofore. In like manner the duties hitherto performed by the secretary and accountant to the Board of Revenue, shall be henceforward performed, so long as this regulation shall remain in force, by the secretary and accountant to the Board of Commissioners.

Cuttack to remain subject to control of the Board of Revenue

Duties to be performed by the secretary and accountants to the commissioners.

IV. The primary object of the present commission, being the superintendence of the ensuing settlement of the land revenue, in the ceded and conquered provinces, and a proper application of the principles prescribed by the existing regulations, for the allotment of the public assessment, it shall be the duty of the commissioners to superintend the performance of that duty by the collectors, as far as circumstances will permit, on the spot, by proceeding from time to time into the different districts, according as they may be of opinion, that their presence may be necessary or advisable.

Commissioners to superintend the formation of the settlement by the collectors as far as may be practicable in person.

V[a]. *The provision contained in Section* 29, *Regulation XXV.* 1803, *prescribes that at the expiration of the existing settlement, in the provinces ceded by the Nawaub Vizier, a new settlement shall be made for the period of four years. In like manner the rules contained in Sections* 4, 5, *and* 6, *Regulation IX.* 1805, *require, that at the expiration of the existing settlement in the conquered provinces, and in the* zillah *of Bundlecund, two more temporary settlements shall be made in the said conquered provinces, and in*

Notification that the assessed jumma of the last year of the settlement in the ceded and conquered provinces, immediately ensuing the present one, shall remain fixed for ever on certain conditions.

[a] Section 5. and 6. are rescinded by Section 2, Regulation X. 1812.

the zillah *of Bundlecund respectively. The Governor General in Council, however, hereby notifies to the* zemindars, *and other actual proprietors of land in the ceded and conquered provinces, that the* jumma *which may be assessed on their estates, in the last year of the settlement, immediately ensuing the present settlement, shall remain fixed for ever; in case the* zemindars *shall now be willing to engage for the payment of the public revenue on those terms in perpetuity, and the arrangement shall receive the sanction of the Honorable the Court of Directors.*

The same principle to be in force in Cuttack, under the orders of the Board of Revenue.

VI. The principle of the foregoing rule shall also be in force in the zillah *of Cuttack, and shall be accordingly carried into effect in that* zillah, *under the orders and superintendence of the Board of Revenue.*

Rules *for* establishing a mint committee at Furruckabad rescinded.

VII. The provision contained in Section 9, Regulation XLV. 1803, which prescribes, that a mint committee shall be established at Furruckabad, consisting of the magistrate, and of the collector of the revenue, is hereby rescinded.

Rules directing the immediate conduct of the mint at Furruckabad to be committed to a mint and assay master, rescinded.

VIII. The provision contained in Section 10, Regulation XLV. 1803, which directs that the immediate conduct of the business of the mint at Furruckabad shall be committed to an officer, to be denominated the mint and assay master, is likewise hereby rescinded.

The general superintendence of the mint at Furruckabad, vested in the Board of Commissioners, without being subject to the control of the presidency mint committee.

IX. The general superintendence of the mint at Furruckabad, shall be vested in the Board of Commissioners, appointed under the present regulation, so long as the present regulation shall continue in force, with the same powers as were vested in the mint committee, by Regulation XLV. 1803, or by any other existing regulation; provided, however, that the Board of Commissioners shall not be considered, to be in any respect subject to the control of the mint committee at Calcutta.

The immediate conduct of the business of the mint, vested in two separate officers, styled mint master and assay master.

X. The immediate conduct of the business of the mint at Furruckabad, shall be vested in two separate officers, vis. a mint master, and an assay master, with such salaries and establishments as the Governor General in Council shall think proper to assign for those officers respectively.

A. D. 1808. REGULATION V.

A REGULATION *to explain and declare the Intent and Meaning of certain Clauses in the existing Regulations, respecting the Settlement of the Land Revenue in the Ceded Provinces.*—PASSED *by the Governor General in Council, on the 8th July* 1808; *corresponding with the 26th Assar* 1215 *Bengal era; the 1st Sawun* 1215 *Fussily; the 26th Assar* 1215 *Willaity; the 1st Sawun* 1860 *Sumbut; and the 13th Jemaud-ul-Awul* 1223 *Higeree.*

Preamble.

BY clause third, Section 53, Regulation XXVII. 1803, respecting the settlement of the ceded provinces, it is enacted, that "persons holding claims to lands, for which engagements have been entered into by the present possessors, and who did not prefer their claims to regain possession of the same, within six months from the date (as recorded in the several *zillahs*) of issuing the proclamation by the Board of Commissioners of the 14th of July 1802, such claimants shall be entitled to be put in actual possession before the expiration of the first lease of three years, and claims not preferred within the aforesaid period of three years shall not entitle the claimant to regain possession until the expiration of ten years." It is also enacted in article 4th, clause second, Section 53, of the abovementioned regulation, "that persons fulfilling their engagements for the first three years shall have the option of renewing the same for the second period, on the prescribed terms, and so on, for the third period." Doubts have in consequence arisen, whether the restrictive clauses thus established in favour of farmers and others, to the exclusion, in certain cases, of the actual proprietors of the lands during the whole decennial term, were intended to apply only "to persons who (according to the terms of the first provision above cited) might not prefer their claims within the aforesaid period of three years," or whether the said restrictions should be considered applicable generally to the proprietors of estates who, having been for any cause excluded from the management of their lands at the conclusion of the first temporary settlement of the ceded provinces, did not prefer a request, within the term of three years, to be admitted to the management of their lands at the expiration of that term. It is consequently become necessary to explain by a declaratory regulation the real intent and meaning of the above provisions, as deducible from the proclamation and instructions published by the Lieutenant Governor and Board of Commissioners in the ceded provinces, in virtue of powers vested in them for that purpose, and from the tenor of other clauses in the existing regulations; the following rules have consequently been passed, to be immediately in force in the ceded provinces.

Explanation of clause third, Section 53, Regulation XXVII. 1803, as to the right of actual proprietors to be put into possession of lands already engaged for by others, farmed out for a term years.

II. It is hereby declared, that clause third, Section 53, Regulation XXVII. 1803, comprising the substance of instructions issued on the 14th July 1802, by the Lieutenant Governor and Board of Commissioners in virtue of powers vested in them for that purpose, was intended to relate in the first place, to the case "where any person, calling himself an actual proprietor of land, should enter into engagements for the same; but it should afterwards appear, that another person was the real proprietor, and willing to take

take the land upon the terms of the settlement." In such case, according to the express provisions of the instructions above cited, "the original engagements were to be annulled, and new ones entered into with the real proprietor; who was to be put in immediate possession;" provided he preferred his claim within six months from the publication of the proclamation of the same date, as required by a further publication issued in conformity to instructions dated 7th August 1802. "In default of which," as declared in the said publication, "the establishing of his right would not entitle the proprietor to be put in possession at any time previous to the expiration of the first lease of three years; during the whole of which lease the lands were in such case to remain in the possession of the person with whom the settlement had been originally made." It was further provided by the said instructions, that "if persons, having claims to land, did not prefer and prove the same within the period of the first lease of the three years, the persons, with whom the existing engagements had been made, were to remain in possession until the expiration of the tenth year." The same clause of the section and regulation, as above cited, was intended to relate in the second place to the case of farmers with whom a village settlement should be made (for lands supposed to be without proprietors), under the 7th article of the proclamation, recited in Regulation XXV. 1803. And, in regard to such farmers, it was provided by the instructions aforesaid, that "in like manner, and on similar conditions, farmers of villages were to be held liable to be dispossessed, in the event of the actual proprietors proving their right to the land, and of their coming forward to enter into engagements for the same."

In what sense the foregoing clause and section is to be understood, and in what cases it is to apply.

III. The aforesaid Section 53. of Regulation XXVII. 1803, being expressly declared by Section 29. of Regulation XXV. 1803, to comprise the substance of the proclamation (instructions) issued by the Lieutenant Governor and Board of Commissioners on the date above mentioned (14th July 1802), must be taken and understood according to the tenor and meaning of the said instructions as herein above recited. It is therefore declared, that Article 4th, clause second, Section 53, Regulation XXVII. 1803, together with clause third of the said section and regulation, so far as they relate to farmers, were intended to apply only to those estates of which a farming or other settlement had been made with persons, not being the actual proprietors, on the presumption that the lands in question were not the immediate property of any individuals, or in consequence of persons not really owners of the lands entering into engagements as actual proprietors of the same. It consequently follows, that the restrictions in question were not intended to apply to the cases of persons, who at the conclusion of the original settlement of the ceded provinces, had been acknowledged by the officers of Government as the proprietors of the estates in question, but who had been excluded from the immediate management of the lands in consequence of their refusal to accede to the *jumma* proposed to be assessed thereon, as under such acknowledgment those persons could have no further claim to prefer, or title to establish. This construction of the rules in question is not only conformable to the clear intent of the instructions issued by the late Board of Commissioners to the collectors for their guidance in the formation of the settlement of the ceded provinces, and with the principles which have uniformly actuated the Government of concluding the settlement in all practicable cases, and at the earliest period of time with the proprietors, but likewise with specific enactments in other parts of the existing regulations. For instance, in Section 33, Regulation XXV. 1803, it is enacted as follows: "The lands of some *zemindars*, independent *talookdars*, and other actual proprietors of land having been held *khas*, or let in farm, in consequence of their refusing to pay the assessment required of them, under the proclamation inserted in Section 29. of this regulation, the Governor General in Council notifies to the *zemindars*, independent *talookdars*, and other actual proprietors of land, whose lands are held *khas*, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which shall be required of them, in conformity to the prescribed rules for the settlement of the land revenue; and the Governor General in Council declares to the *zemindars*, independent *talookdars*, and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed, (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall

approve of the transfer,) but that, at the expiration of that period, upon their agreeing to the payment of the assessment which shall be required of them, they shall be reinstated, under the general regulations, in the management of their estates respectively." In like manner, it is enacted in Section 7, Regulation V. 1805, as follows: "Nothing contained in this regulation shall be considered to affect any settlements which shall have been actually concluded for the whole or any part of the ensuing three years 1213, 1214, and 1215 Fussily, neither shall any part of this regulation be construed to preclude the operation of the rule prescribed by Section 33, Regulation XXV. 1803, under which the *zemindars*, independent *talookdars*, and other actual proprietors of land, whose lands have been let in farm, are entitled, at the expiration of the present triennial settlement ending with the year 1212 Fussily, to be reinstated, under the general regulations prescribed for such cases, in the management of their estates, upon their agreeing to the payment of the assessment required from them." The first of the two rules above cited would have been nugatory and superfluous, had it been intended that the acknowledged proprietors of estates, who had been excluded from the immediate management of their estates, should only re-obtain possession on the expiration of the whole of the decennial term; as they would naturally be reinstated in the possession of their lands in the ordinary course on the expiration of that period, without any legislative provision for that purpose in their favour. And Section 7, Regulation V. 1805, specifically states, in allusion to the former rule, that the *zemindars*, independent *talookdars*, and other actual proprietors of land, whose lands have been let to farm, are entitled, at the expiration of the first triennial settlement, to be reinstated in the management of their estates.

IV. Conformably to the foregoing construction of the existing regulations, all persons who were acknowledged to be the actual proprietors of estates at the conclusion of the first settlement of the ceded provinces, and were excluded from the immediate management of their lands in consequence of their refusal to accede to the *jumma* required from them, were justly entitled to be reinstated in possession of their lands at the expiration of the first triennial lease, on their agreeing to the payment of the assessment required of them; and are in like manner entitled to the possession and management of their lands, under the same condition, at the expiration of the triennial lease now in force. It is accordingly hereby declared, that they shall be reinstated in the possession and management of their lands at the close of the current Fussily year, on their assenting to the *jumma* which may now be assessed on their respective estates. No part, however, of this regulation shall be construed to extend to the case of the claimants of estates in the ceded provinces, whose proprietary right was disputed at the period of the conclusion of the first triennial settlement of those provinces, and who did not establish their claims in a court of justice before the expiration of the first triennial settlement. In all cases of this description, in which the lands were let to farm, the farmers are entitled, under the regulation above noticed and the conditions of their lease, to the option of renewing the lease for the period of four years from the commencement of the Fussily year 1216, provided that they have hitherto duly fulfilled the conditions of their engagements.

Acknowledged actual proprietors, who had been excluded from the management of their lands on refusing to accede to the prescribed *jumma*, shall be reinstated at the close of the present Fussily year, on their assenting to the *jumma* proposed.

This rule not to extend to persons, whose proprietary right was not established before the expiration of the first triennial settlement.

A. D. 1812. REGULATION V.

A REGULATION *for amending some of the Rules at present in Force for the Collection of the Land Revenue.*—PASSED *by the Governor General in Council, on the* 1*st May* 1812, *corresponding with the* 20*th Bysaak* 1219 *Bengal era; the* 5*th Bysaak* 1219 *Fussily; the* 21*st Bysaak* 1219 *Willaity; the* 5*th Bysaak* 1869 *Sumbut; and the* 18*th Rubbee-us-Sanee* 1227 *Higeree.*

Preamble.

WHEREAS it has been deemed advisable to revise the rules established regarding the grant of *pottahs* by the proprietors of land, paying revenue to Government, to their tenants, and also the rates at which persons purchasing land at the public sales are entitled to collect their rents; and whereas there are grounds to believe, that considerable abuses and oppression have been committed by *zemindars*, *talookdars*, and farmers of land in the exercise of the powers vested in them, with respect to the distress and sale of the property of their tenants for the recovery of arrears of rent; and circumstances having occurred which render it necessary to explain the real intent and meaning of the existing rules regarding the sale of estates for the recovery of arrears of public assessment; and whereas it has been deemed expedient to annul the existing provisions for levying in certain cases a penalty of twelve per cent. in addition to the established interest on arrears due from the proprietors and farmers of estates, and at the same time to provide more generally for the levy of such interest; the following rules have been passed, to be in force, on their promulgation, throughout the provinces immediately dependant on the presidency of Fort William.

Rules contained in Section 2, Regulation XLIV. 1793; Section 2, Regulation L. 1795, and clause second, Section 2, Regulation XLVII. 1803, precluding proprietors of lands paying revenue to Government, from granting leases for a longer period than ten years, rescinded.

II. Section 2, Regulation XLIV. 1793; Section 2, Regulation L. 1795; and clause second, Section 2, Regulation XLVII. 1803, by which the proprietors of land, paying revenue to Government, are precluded from granting leases for a period exceeding ten years, are hereby rescinded; and proprietors of lands are declared competent to grant leases for any period which they may deem most convenient to themselves and tenants, and most conducive to the improvement of their estates.

Certain parts of Regulation VIII. 1793, and Regulation IV. 1794, respecting forms of *pottahs* and engagements for rent, rescinded; and proprietors declared competent to grant leases and receive engagements in such forms as may be convenient to the parties.

III. Such parts of Regulation VIII. 1793, and of Regulation IV. 1794, as require that the proprietors of land shall prepare forms of *pottahs*, and that such forms shall be revised by the collectors, and which declare that engagements for rent contracted in any other mode than that prescribed by the regulations in question, shall be deemed to be invalid, are likewise hereby rescinded: and the proprietors of land shall henceforward be considered competent to grant leases to their dependant *talookdars*, under-farmers, and *ryots*, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests. Provided, however, that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of *abwaub*, *muthote*, or any other denomination. All stipulations or reservations of that nature shall be adjudged by the courts of judicature to be null and void: but the courts shall notwithstanding maintain and give effect to the definite clauses of the engagements contracted between the parties, or in other words, enforce payment of such sums as may have been specifically agreed upon between them.

Such rule not to legalize stipulations for arbitrary or indefinite cesses, which are to be adjudged null and void, but without vitiating the definite clauses of the engagements.

IV.

No person attaching lands on the part of Government, or purchasing at public sales, entitled to annul existing leases within the year, on the grounds of collusion, without a judicial decision on summary suits.

IV. Section 5, Regulation XLIV. 1793; Section 5, Regulation L. 1795; and Section 5, Regulation XLVII. 1803, contain provisions for annulling, in the case of public sales, all engagements which may have been contracted between the proprietor of the lands and his under-tenants; and for empowering the purchaser to collect according to the established usages and rates of the *pergunnah* or district in which the land may be sold: clause third, Section 23, Regulation VII. 1799, Section 24, Regulation V. 1800; Section 9, Regulation I. 1801; Section 5, Regulation XLVII. 1803; at the same time contain provisions for suspending the annulment of leases, supposing the sale to have taken place after the expiration of the second month of the Bengal or Fussily year, until the close of the year, except in cases in which such leases may appear to the officers deputed to attach or manage them on the part of Government, or to the purchasers at the public sales, to be obviously collusive. In addition to these last mentioned provisions, it is hereby declared, that neither any person deputed to attach lands on the part of Government, nor purchasers at the public sales, shall be deemed entitled to annul existing leases within the year, in which the attachment or sale may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a court of judicature; the case to be tried as a summary suit, under Regulation VII. 1799.

Rules as to the rates at which purchasers of lands may collect during the year in which the sale takes place, in cases in which leases may be cancelled.

V. By Section 5, Regulation XLIV. 1793; Section 5, Regulation L. 1795; and Section 5, Regulation XLVII. 1803, already cited, it is provided, that in cases in which leases may be cancelled on the occasion of public sales, made for the recovery of arrears of assessment, the purchaser shall be entitled to collect, during the year in which the sale took place, whatever the former proprietor would have been entitled to receive, "according to the established usages and rates of the *pergunnah*, or district in which such lands may be situated." There being, however, reason to believe that the *pergunnah* rates are in many instances become very uncertain, the following rules shall be observed on all occasions of that nature.

Established *pergunnah* rates, where such exist, shall determine the amount to be collected by Government officers or purchasers.

VI. If any known established *pergunnah* rates shall exist, the same shall serve to determine the amount of the rent, which should be received by persons deputed to attach the lands on the part of Government, or by the purchasers at the public sales.

Rules where no *pergunnah* rates exist.

VII. In cases in which no established rates of the *pergunnah*, or local division of the country may be known, *pottahs* shall be granted, and the collections made, according to the rate payable for land of a similar description in the places adjacent; but if the leases and *pottahs* of the tenants of an estate generally which may consist of an entire village or other local division, be liable to be cancelled under the rules above noticed, new *pottahs* shall be granted, and the collections made at rates not exceeding the highest rate paid for the same land in any one year, within the period of the three last years antecedent to the period at which the leases may be cancelled.

What allowances to be made in computing the rates payable by *ryots*, &c. in the case of dependant *talooks*.

VIII. In the case of a dependant *talookdar*, if the rent of the lands be computed according to the rates payable by *ryots* or cultivators, for land of a similar quality and description, a deduction shall be allowed from the gross rent, in the adjustment of the *jumma* of such dependant *talook*, at the rate of ten per cent. for the *talookdar's* profit or income, over and above a reasonable allowance for charges of collection according to the extent of the *talook*.

No cultivator or tenant liable to pay enhanced rent, unless under written engagements or notice served upon him at the season of cultivation.

IX. By the former and present regulations, persons purchasing land at the public sales, are competent under certain restrictions to annul engagements contracted between the late proprietor of the lands and his under-tenants. But it is hereby declared, that no cultivator or tenant of land shall be liable to pay an enhanced rent, though subject to enhancement under subsisting regulations, unless written engagements for such enhanced rent have been entered into by the parties, or a formal written notice have been served on such cultivator or tenant at the season of cultivation: viz. on or before the month of Jeyte, notifying the specific rent, under the landholders right of enhancing it, to which he will be subject for the ensuing Fussily, or for the current Bengal year.

Cultivator not served with such notice, entitled

X. Unless such notification be duly served, no greater rent shall be exigible by process of distress or confinement of person, nor recoverable by suit in court, than the cultivator or

tenant was bound to pay under his previous engagements: and if more be levied from him, he shall be entitled to a refund of the excess with damages, on proof of the circumstances before a court of justice. In all practicable cases the required notification shall be served personally on the tenant: but if he shall abscond, or conceal himself, so that it cannot be served personally upon him, it shall be affixed at his usual place of residence; which latter process shall in such case be deemed and taken to be a sufficient service of the notification in question.

to a refund of any excess beyond the amount of his previous engagements.

How such notices are to be served.

XI. The provisions contained in the preceding section shall be considered equally applicable to sequestrators on the part of Government, to managers on the part of the court of wards, and to farmers, whenever estates or portions of estates, may be let to farm under the authority of the Board of Revenue or Board of Commissioners.

The preceding provisions applicable to sequestrators, managers, and farmers holding under the authority of the Board of Revenue or Board of Commissioners.

XII. The rules contained in the existing regulations for the provinces of Bengal, Behar, Orissa, and Benares, and for the ceded and conquered provinces, respecting distress and sale for the recovery of arrears of rent, are hereby declared subject to the following modifications.

Rules respecting distress and sale for recovery of arrears, modified.

XIII. Whenever any *zemindar*, independent *talookdar*, or other actual proprietor of land, or any person farming land directly from Government, shall be desirous of distraining the property of his tenant, with a view to the recovery of an arrear of rent; such *zemindar* or other person shall, either previously or at the time of the distress, serve the said tenant with a written demand for the amount of it, accompanied with a *jumma wasil baukee*, exhibiting the grounds on which the demand is so made; and no process for the distress and sale of property on account of arrears of rent shall be deemed legal and valid, unless the rule here prescribed shall have been duly observed. In all practicable cases, the prescribed demand and *jumma wasil baukee* account, shall be served personally on the tenant; but if he abscond or conceal himself, so that they cannot be served personally upon him, they shall be affixed at his usual place of residence; which latter process shall in such case be deemed and taken to be a sufficient service of the demand and account in question.

No process for distress or sale to be legal, unless the tenant shall be served with a written demand, accompanied with a *jumma wasil baukee*.

XIV. Ploughs and other implements of husbandry, bullocks, and other cattle employed in agriculture, together with the tools of artisans, shall not be subject to distress and sale on account of arrears of rent, although the tenant from whom such arrears may be demanded, shall not possess other property sufficient to make good the arrear.

Ploughs, &c. and cattle employed in agriculture, not to be distrained or sold.

XV. If an attachment for arrears shall have been issued against the property of any tenant of any description, whether denominated under-farmer, *ryot*, or dependant *talookdar*, who may not have given security for the payment of his rent or revenue, and such tenant shall dispute the justness of the demand, and shall within five days, reckoning from the day following the attachment, or if the property attached consist of crops, or other ungathered products of the earth, within five days, calculating from the day following the date on which such crops or products may be stored, enter into a bond before the judge or collector of the *zillah*, the *cauzy* of the *pergunnah*, the commissioner, or other person vested with power to sell distrained property, or before the distrainer himself, with good security, binding himself to institute a suit in the *dewanny adawlut* of the *zillah* within fifteen days from the date of such bond, for the trial of the demand, and to pay whatever sum may be adjudged to be due from him, with interest upon it at the rate of twelve per cent. per annum, to be calculated from the date on which the arrear that may be awarded became payable to the date of the decree, with all costs of suit, the distrainer shall immediately withdraw the attachment, and restore the property to the defaulter. If the stated defaulter shall fail to execute the bond within the period prescribed, the distrainer shall be at liberty to keep the property under attachment, and to cause it to be sold in the manner hereafter directed, unless the arrear, with the expenses of the attachment, shall be discharged previously to the day of sale. If the defaulter shall execute the bond, but omit to institute the suit in the *dewanny adawlut*, within the time prescribed, the distrainer shall demand payment of the arrear from the surety; and if the event of his not discharging the amount immediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, excepting always the articles specified in Section 14. of this regulation, and to cause it to be sold, unless

Attachment to be withdrawn, and distrained property restored, should a tenant who may not have given security, dispute the demand, and enter into a bond with security, binding himself to institute a suit within fifteen days.

Attachment shall continue, and the property be sold, should the tenant fail to execute such bond, or pay the arrears.

Should he execute the bond, but fail to institute a suit, his security may be proceeded against.

less the arrear and the expenses of the attachment shall be discharged previously to the day of sale.

Under what rules attachment shall be withdrawn, in the case of tenants who have given security disputing the justness of the demand.

XVI. If an attachment for arrears shall have been issued against any tenant, who may have given security for the payment of his rent or revenue, and such tenant shall dispute the justness of the demand, and the surety within five days, reckoning from the day following the day of the attachment, or if the property attached shall consist of crops or other ungathered products of the earth, within five days, calculating from the day following the date on which such crops or products may be stored, shall deliver a writing, attested by two witnesses, to the judge of the *dewanny adawlut*, the collector of the district, the *cauzy* of the *pergunnah*, the commissioner or other person vested with power to sell distrained property, or to the distrainer himself, engaging that either he or the stated defaulter will institute a suit in the *dewanny adawlut* within fifteen days from the date of such writing, to try the demand, and to pay the amount that may be adjudged against them, with interest upon it at the rate of twelve per cent. per annum, to be calculated from the date on which the arrear that may be awarded became payable to the date of the decree, with all costs of suit, the distrainer shall immediately withdraw the attachment. If the surety shall fail to execute such writing within the prescribed period, the distrainer shall continue the property under attachment, and cause it to be sold in the manner hereafter directed, unless the arrear and the expenses attending the attachment shall be discharged previously to the day of sale. If the surety shall execute the writing, but fail to have the suit instituted, either in his own name or that of the defaulter, within the abovementioned period of fifteen days, the distrainer shall demand payment of the arrears from the surety; and in the event of his omitting to discharge the amount immediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, excepting always the articles specified in Section 14. of this regulation, and to cause it to be sold in the manner hereafter directed; unless the arrears and the expenses attending the attachment shall be discharged before the day of sale. If the surety of the stated defaulter shall refuse or omit to enter into the writing required, or if he shall happen to be at a distance, so as to render it impossible for him to execute such writing within the prescribed time, and such defaulter in either of these cases shall give the security required from the defaulters, specified in Section 15. of this regulation, the distrainer shall withdraw the attachment; and the rules contained in the foregoing section shall in every respect be considered applicable to the parties concerned.

Property to continue under attachment, should the surety fail to execute the necessary writing.

Should the surety fail to have a suit instituted, the distrainer may attach both his and the defaulter's property.

The rules contained in Section 16. declared to be applicable, should the required writing not be executed by the surety, and the defaulter himself give the required security.

Persons unable to give sufficient security may institute a suit in the court to try the demand or recover damages.

XVII. Should any *ryot*, farmer, or dependant *talookdar*, whose property may have been distrained, be unable to give security to the amount of the demand, together with interest upon it, at the rate of one rupee per mensem, with costs of suit and expenses of attachment, he will of course be at liberty to institute a suit against the distrainer in the *dewanny adawlut*, to try the demand, and for the recovery of damages on account of any injury which he may have sustained by the illicit sale of his property.

Distrained property to be appraised previously to sale, and a certificate furnished to the defaulter.

XVIII. Whenever property shall have been distrained with a view to the sale of it, for the recovery of arrears of rent, it shall be appraised, previously to such sale, by persons conversant with the purchase and sale of articles of the quality and description of those so distrained, and a certificate of the appraisement shall be furnished by the appraisers under their signatures, which shall be communicated to the tenant at least three days before the sale.

Sale to be postponed, should the price offered be less than the appraised value.

XIX. If at the time of sale, a price shall not be offered for the distrained property equal to its appraised value, the sale shall be postponed until the ensuing market day, when the property shall be actually sold, whatever price (not less than the amount bidden on the first day of sale) may be offered for it.

Suits under this regulation to be decided on summary inquiry, under Regulation VII. 1799.

XX. Suits which may be instituted under the present regulation, shall be decided on a summary enquiry, under the provisions contained in Regulation VII. 1799.

All such causes to be referred immediately to the collectors for report,

XXI. In order likewise further to expedite the decision on such causes, the whole of them shall be referred as soon as instituted to the collectors for their report, under the rule contained in Section 13, Regulation VIII. 1794.

XXII. It shall be the duty of the Board of Revenue and Board of Commissioners to obtain from the collectors such periodical returns regarding the execution of the above-mentioned duty, as may appear best calculated to satisfy those Boards that no delay occurs in the performance of it.

under Section 13, Regulation VIII. 1794.

Collectors to furnish periodical returns of the execution of the above-ment oned duty.

XXIII. Any person who may be dissatisfied with the judgments which may be passed under the summary inquiries above mentioned, shall be at liberty, on the principle of the rules established by the existing regulations, to institute a regular suit for the more formal investigation of the merits of the case.

Persons dissatisfied with summary decisions, may institute regular suits.

XXIV. It is hereby declared, that sales made of entire estates for the recovery of arrears of public assessment, are not liable to be annulled by the courts of judicature, on the ground that one or more of the sharers may not have obtained possession of his or their interest in the property. The consideration of and decision on the expediency of selling the entire estate, or of disposing in the first instance of any particular part of it, is hereby declared to reside in the Board of Revenue, and Board of Commissioners respectively, subject to the control exercised by the Government, in its executive capacity, in matters connected with the public revenue.

Sales of entire estates not liable to be annulled by the courts, on the grounds of some of the sharers not having obtained possession, and the decision on the expediency of selling entire estates, or particular parts, vested in the Boards respectively.

XXV. No means existing, by which any certain or accurate computation can be formed *a priori* of the real value of any estate, or portion of estate, which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate, or portion of estate; it is hereby declared, that sales made at public auction for that purpose are not liable to be annulled by the courts of judicature on the ground that the proceeds of the sales have materially exceeded the amount of the arrears due from the proprietors of the lands to Government. The Board of Revenue and Board of Commissioners will be guided in cases of that nature by their own discretion; subject of course to any instructions with which they may at any time be furnished by the Governor General in Council.

Sales not liable to be annulled on the ground of the proceeds having materially exceeded the arrears due.

XXVI. Inconvenience to the public and injury to private rights having been experienced in certain cases from disputes subsisting among the proprietors of joint undivided estates, it is hereby enacted, that whenever sufficient cause shall be shewn by the revenue authorities, or by any of the individuals holding an interest in such estates, for the interposition of the courts of judicature, it shall be competent to the *zillah* and city judges to appoint a person duly qualified, and under proper security to manage the estate, that is, to collect the rents, and discharge the public revenue, and provide for the cultivation and future improvement of the estate: Provided however, that if the revenue authorities, or any of the individuals holding an interest in the estate, shall be dissatisfied with the selection made by the *zillah* or city judge, of the individual to perform the duty in question, it shall be competent for them to represent their objections to the provincial court of appeal, which court will confirm the manager chosen, or order the judge to select and appoint another person, according as on consideration of the circumstances of the case may appear to them reasonable and proper.

The judges declared competent to appoint managers of joint undivided estates on sufficient cause shewn.

Objections against the person so appointed to be represented to the provincial courts.

XXVII. In like manner, should the authorities aforesaid, or any individual holding an interest in the estate, be at any subsequent time dissatisfied with the conduct of the manager, it shall be competent for them or him to represent the circumstances of the case to the *zillah* or city judge, and to move the court for the removal of the said manager: and should those authorities or persons be dissatisfied with the orders which may be passed on the subject by the *zillah* or city judge, it shall be competent for them to bring the case before the provincial court of appeal, which court will determine on the propriety of removing the manager or otherwise, as may appear to them to be right and proper.

Court may be moved for the removal of such managers, should their conduct be unsatisfactory.

XXVIII. First. Under the existing regulations, proprietors and farmers of estates paying revenue directly to Government, are required to discharge the instalments on account of each month, on or before the first day of the following month; and such proprietors and farmers are liable to the payment of interest at the rate of twelve per cent. per annum, on any arrears which may be due from them after the expiration of that period:*

Such parts of the regulations as render landholders liable to pay a penalty of twelve per cent. per annum, in addition to the established charge of interest, rescinded.

* This clause is rescinded by Section 2, Regulation XII. 1824.

period: by the rules in force likewise in the provinces of Bengal, Behar, Orissa, and Benares, the said zemindars *and farmers are liable to the payment, at the discretion of the Board of Revenue, and Board of Commissioners, of a further penalty at the rate of twelve per cent. per annum on the arrears due from them respectively. Inconvenience having however been experienced from the existence of the complex demand of interest and penalty, such parts of Section 2, Regulation I. 1801, and of any other regulations as render the* zemindars *and* sudder *farmers liable to a penalty of twelve per cent. per annum, in addition to the established charge of interest, are hereby rescinded.*

Landholders, failing to discharge the monthly instalments, shall be charged with interest at twelve per cent. per annum, unless remitted by the Boards respectively.

Second. In cases in which the proprietors and farmers of land shall fail to discharge the instalments of each succeeding month, on or before the first of the month following, they shall uniformly stand charged on the public accounts with interest from that date at the rate of twelve per cent. per annum, nor shall it be competent for the collectors to remit any part of that demand by their own authority. Provided however, that if the Board of Revenue, and Board of Commissioners, shall see any special reason, in consequence of reports which may be received by them from the collectors for remitting the interest, those authorities shall be competent to order it to be relinquished accordingly.

The Boards shall obtain periodical accounts of such interest, to be compared with the *toujees*.

Third. It shall be the duty of the Board of Revenue and Board of Commissioners to obtain such periodical accounts of the interest, as may enable them, on comparing the said accounts with the monthly *toujees*, not only to judge whether the demand for interest has been properly adjusted, but likewise to ascertain the amount realized on that account, and the amount which may be at any time outstanding. On examination of the accounts required, the Board of Revenue, and Board of Commissioners, will of course furnish the collectors with any instructions which the nature and circumstances of the case may appear to require.

A. D. 1812. REGULATION IX.

A REGULATION *for modifying some of the Rules before enacted regarding the Settlement of the ceded Provinces.*—PASSED *by the Governor General in Council, on the* 11*th July* 1812; *corresponding with the* 29*th Assaar* 1219 *Bengal era; the* 17*th Assaar* 1219 *Fussily; the* 20*th Assaar* 1219 *Willaity; the* 3*d Assaar* 1860 *Sumbut; and the* 1*st Rajeeb* 1227 *Higeree.*

Preamble.

WHEREAS it was enacted in Section 5, Regulation X. 1807, with respect to estates paying revenue to Government in the provinces ceded by His Excellency the Nawaub Vizier, that the *jumma* which might be assessed upon them in the last year of the quarternial settlement, commencing with the Fussily year 1216, and terminating with the year 1219, should remain fixed for ever, provided that the arrangement should receive the sanction of the Honorable the Court of Directors; and whereas the Honorable Court, in the exercise of the discretion expressly reserved to them by the rule above cited, have not deemed it advisable to confirm that arrangement, the following rules have been enacted, to be immediately in force in the ceded provinces.

Certain part of Section 5, Regulation X. 1807, rescinded.

II. Such part of Section 5, Regulation X. 1807, as declares provisionally that the *jumma*, which may be assessed on the estates of the *zemindars* and other actual proprietors of land in the ceded provinces, shall remain fixed for ever, is hereby rescinded.

Declaration contained in clause fourth, Section 29, Regulation XXV. 1803, respecting a permanent settlement to be concluded after a period of ten years, to be in full force and effect.

III. It having been declared in clause fourth, Section 29, Regulation XXV. 1803, with reference to the settlement then depending, that at the end of ten years, a permanent settlement would be concluded with the same persons, (if willing to engage, and if no others having a better claim should come forward) for such lands, as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable, the said rule is hereby declared to be in full force and effect.

The Board of Commissioners to ascertain what estates are in a state of cultivation to warrant the conclusion of a permanent settlement, and rules for the formation of it.

IV. Under the provision contained in the preceding section, it will of course be the duty of the Board of Commissioners to ascertain what estates may be in a state of cultivation to warrant the conclusion of a permanent settlement. In all such cases a revision shall be made of the *jumma* assessed on the said estates, on the principle of leaving to the proprietors a neat income of ten per cent. on the *jumma*, exclusive of charges of collection; and a settlement shall be concluded with the proprietors, subject of course to the approval of the Governor General in Council accordingly. The *jumma* which may be so fixed on the estates of the *zemindars* and other actual proprietors of land, shall in conformity to the tenor of the proclamation originally issued by the late Lieutenant Governor and Board of Commissioners, and afterwards incorporated into Regulation XXV. 1803, remain fixed for ever.

Report to be made to Government of such estates as may not be in a sufficiently improved state to admit the conclusion of a permanent settlement.

V. Under the rule contained in Section 3. of this regulation, it will likewise be the duty of the Board of Commissioners to submit to the Governor General in Council, a report specifying the estates, which may not appear to be yet in a sufficiently improved state of cultivation to admit of the conclusion of a permanent settlement, without a sacrifice of those resources which may hereafter be derived from them for the exigencies of Government. In all cases of that nature, the Governor General in Council will determine, on consideration of the information which may be furnished by the Board of Commissioners, whether the settlement of such estates shall be made for the term of three or five years, or for any other period, according as may appear most conducive to the public interests.

A. D.

A. D. 1812. REGULATION X.

A REGULATION *for modifying some of the Rules before enacted regarding the Settlement of the Conquered Provinces, lying on the right and left Banks of the River Jumna, of the Territory ceded by His Highness the Peishwa in Bundlecund, and of the District of Cuttack.*—PASSED *by the Governor General in Council, on the* 11*th July* 1812; *corresponding with the* 29*th Assaur* 1219 *Bengal era; the* 17*th Assaur* 1219 *Fussily; the* 20*th Assaur* 1219 *Willaity; the* 3*d Assaur* 1869 *Sumbut; and the* 1*st Rajeeb* 1227 *Higeree.*

Preamble.

WHEREAS it was provided by Section 7, Regulation IX. 1805, in regard to estates paying revenue to Government in the conquered provinces, lying on the right and left banks of the river Jumna, that three temporary settlements, comprehending altogether a period of ten years, should be made with the *zemindars* and other actual proprietors of land; and in regard to the territory ceded by His Highness the Peishwa in Bundlecund, that four temporary settlements should be made, comprehending also a period of ten years; and that at the end of the said ten years, expiring with the year 1222 Fussily, a permanent settlement should be concluded with the same persons, (if willing to engage, and if no other persons having a better claim should come forward,) for such lands as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable; and whereas the principal of the foregoing rules was likewise adopted in its fullest extent in the district of Cuttack, in so much, that it is declared in the 6th article of the proclamation, incorporated into Regulation XII. 1805, that at the end of the year 1222, a permanent settlement would be concluded with the *zemindars* and other actual proprietors of land, for such lands as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable; and whereas it is enacted in Sections 5 and 6, Regulation X. 1807, that at the expiration of the temporary settlement then about to take place, the *jumma* which might be assessed on the estates, in the last year of the settlement, should remain fixed for ever, in case the arrangement should receive the confirmation of the Honorable the Court of Directors; and whereas the Honorable Court, in the exercise of the discretion expressly reserved to them by the rules above cited, have not deemed it advisable to confirm that arrangement; the following rules have been enacted, to be immediately in force in the conquered provinces, lying on the right and left banks of the river Jumna; in the territory ceded by his Highness the Peishwa in Bundlecund; and in the district of Cuttack.

Certain parts of Sections 5, and 6, Regulation X. 1807, rescinded.

II. Such parts of Sections 5 and 6, Regulation X. 1807, as declared provisionally that the *jumma*, which may be assessed on the estates of the *zemindars* and other actual proprietors of lands, in the abovementioned territories, shall remain fixed for ever, is hereby rescinded.

Declaration contained in Section 7, Regulation IX. and clause sixth, Section 4, Regulation XII.

III. It having been declared in Section 7, Regulation IX. and clause sixth, Section 4, Regulation XII. 1805, with reference to the settlement then depending, that at the end of ten years, that is, at the expiration of the Fussily year 1222, a permanent settlement would

1805, respecting a permanent settlement to be concluded after a period of ten years, to be in full force and effect.

would be concluded with the same persons, (if willing to engage, and if no others having a better claim should come forward,) for such lands, as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable, the said rule is hereby declared to be in full force and effect.

The Board of Commissioners and Board of Revenue respectively, to ascertain what estates are in a state of cultivation to warrant the conclusion of a permanent settlement, and rules for the formation of it.

IV. Under the provision contained in the preceding section, it will of course be the duty of the Board of Commissioners and Board of Revenue, in the places subject to their control respectively, to ascertain, previously to the expiration of the year 1222, what estates may be in a state of cultivation to warrant the conclusion of a permanent settlement. In all such cases a revision shall be made of the *jumma* assessed on the said estates, on the principle of leaving to the proprietors a net income of ten per cent. on the *jumma*, exclusive of charges of collection; and a settlement shall be concluded with the proprietors, subject of course to the approval of the Governor General in Council accordingly. The *jumma* which may be so fixed on the estates of the *semindars* and other actual proprietors of land, shall in conformity to the tenor of the proclamations originally issued, and afterwards incorporated into Regulations IX. and XII. 1805, remain fixed for ever.

Reports to be made to Government of such estates as may not be in a sufficiently improved state to admit the conclusion of a permanent settlement.

V. Under the rule contained in Section 3. of this regulation, it will likewise be the duty of the Board of Commissioners and Board of Revenue, to submit to the Governor General in Council, a report, specifying the estates which may not appear to be yet in a sufficiently improved state of cultivation to admit of the conclusion of a permanent settlement, without a sacrifice of those resources which may hereafter be derived from them for the exigencies of Government. In all cases of that nature, the Governor General in Council will determine, on consideration of the information which may be furnished by the Board of Commissioners and Board of Revenue, whether the settlement of such estates shall be made for the term of three or five years, or for any other period, according as may appear most conducive to the public interests.

A. D. 1812. REGULATION XIV.

A REGULATION *for modifying in certain Cases the Rule contained in Section 2, Regulation V.* 1812, *regarding the Grant of Leases by the Proprietors of Lands in the ceded and conquered Provinces to their Tenants.*—PASSED *by the Governor General in Council, on the* 31*st July* 1812; *corresponding with the* 17*th Sawun* 1219 *Bengal era; the* 7*th Sawun* 1219 *Fussily; the* 18*th Sawun* 1219 *Willaity; the* 8*th Sawun* 1869 *Sumbut; and the* 21*st Rajub* 1227 *Higeree.*

Preamble.

WHEREAS it is enacted by Section 2, Regulation V. 1812, that proprietors of lands shall be competent to grant leases for any period, which they may deem most convenient to themselves and tenants, and most conducive to the improvement of their estates; and whereas Regulations IX. and X. 1812, contain rules under which the settlement, which had been made in perpetuity in the ceded and conquered provinces, with the reserve of the approval of the Honorable the Court of Directors, is subject to considerable modifications and restrictions; and whereas those rules consequently create a necessity for limiting the power granted by Section 2, Regulation V. 1812, as above noticed; the following rules have been enacted, to be immediately in force in the ceded and conquered provinces, including the territory ceded by His Highness the Peishwa in Bundlecund, the district of Cuttack, and the *pergunnahs* formerly dependant on that district, but now annexed to the *villah* of Midnapore.

No semindar or proprietor shall grant leases for a term extending beyond the term of his own engagements with Government.

II. No *semindar* or other proprietor of land in the ceded and conquered provinces, shall grant leases or fix the rent of any land tenure for a term exceeding ten years; or if the term of his own engagement with Government be less than ten years, extending beyond such less term.

Every evasion of this prohibition to be considered as an infringement of this rule, and leases so granted to be null and void.

III. Any evasion of this prohibition by entering into separate engagements or leases to take effect successively, or by dating an engagement or lease on a day other than that on which it was actually executed, or by any other device, shall be considered as an infringement of it. And every lease or engagement fixing the rent, which has been or shall be concluded or granted in opposition to this prohibition, is declared to be null and void.

Subsisting engagements not repugnant to these rules shall remain in force in cases of division or transfer of estates.

IV. When a division of a joint estate shall be made, or the whole or a portion of an estate shall be transferred by sale in discharge of decrees of court, or by private sale, gift, or other private transfer, the subsisting leases and engagements, if they be not repugnant to the rules prescribed in the foregoing sections, shall remain in force as provided by Sections 3 and 4. of Regulation XLVII. of 1803, until the term of them shall expire, (excepting in the case of the lands being disposed of at public sale for the discharge of arrears of the public assessment.)

A. D. 1812. REGULATION XVIII.

A REGULATION *for explaining Section* 2, *Regulation V.* 1812, *and rescinding Sections* 3. *and* 4, *Regulation XLIV.* 1793, *and Sections* 3. *and* 4, *Regulation L.* 1795, *and enacting other Rules in lieu thereof.*—PASSED *by the Governor General in Council, on the* 19*th September* 1812; *corresponding with the* 5*th Assin* 1219 *Bengal era; the* 28*th Bhadoon* 1219 *Fussily; the* 6*th Assin* 1220 *Willaity; the* 13*th Bhadoon* 1869 *Sumbut; and the* 12*th Ramzaan* 1227 *Higrees.*

Preamble.

WHEREAS it has been deemed expedient to remove doubts, which have arisen on the construction of Section 2, Regulation V. 1812, and to rescind Sections 3. and 4. of Regulation XLIV. 1793, and Sections 3. and 4. of Regulation L. 1795, the following rules have been enacted, to be in force from the promulgation of them in the provinces of Bengal, Behar, Orissa, (exclusive of the district of Cuttack, and the *pergunnahs* formerly dependant on that district, but now annexed to the *zillah* of Midnapore,) and Benares.

Explanation of the intent of Section 2, Regulation V. 1812, as to granting leases in perpetuity or otherwise.

II. Doubts having arisen on the construction of Section 2, Regulation V. 1812, it is hereby explained, that the true intent of the said section, was to declare proprietors of land competent to grant leases for any period, even to perpetuity, and at any rent, which they might deem conducive to their interests. Provided, however, that nothing contained in the former or present regulation, shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it.

Sections 3. and 4, Regulation XLIV. 1793, and Sections 3. and 4, Regulation L. 1795, rescinded.

Rule for apportioning the assessment on shares of estates when divided.

III. *First.* Sections 3. and 4, Regulation XLIV. 1793, and Sections 3. and 4, Regulation L. 1795, are hereby rescinded.

Second. When a division of a joint estate shall be made on the application of the proprietors, or pursuant to the decree of a court of justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares, agreeably to the principles prescribed in Section 10, Regulation I. 1793, and Section 7, Regulation XXVII. 1795, without regard to any engagements that may subsist between the proprietors and their dependant *talookdars*, (excepting the dependant *talookdars* described in Section 7, Regulation XLIV. 1793,) under-farmers, or *ryots*. But all leases made in conformity to Sections 2. and 3, Regulation V. 1812, and Section 2. of this regulation, shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift, or otherwise.

A. D. 1815. REGULATION I.

A REGULATION *for securing the Right of the British Government to assess Land held under Mocurreree or Istemrar Grants of any preceding Government, on the Decease of the Holders thereof.*—PASSED *by the Vice-President in Council, on the* 18*th February* 1815; *corresponding with the* 8*th Phagoon* 1221 *Bengal era; the* 22*d Maug* 1222 *Fussily; the* 9*th Phagoon* 1222 *Willaity; the* 9*th Maug* 1871 *Sumbut; and the* 7*th Rubbi-ul-Awul* 1230 *Higeree.*

Preamble.

WHEREAS the occupants of lands in the ceded and conquered provinces and in Bundlecund, held at a *mocurreree* or *istemrar jumma*, under recognized grants of the native Governments, have been permitted by the British Government to hold the same according to the terms of the grants during life: and whereas it is expedient to obviate every doubt respecting the right of the British Government to impose an adequate assessment on such lands on the death of such life tenants; the following rules are enacted, to have effect from the date of their promulgation in the provinces aforesaid.

Duty of collectors in the assessment of lands held under *mocurreree* or *istemrar* grants of the native Governments, on the decease of the holders.

II. On the death of any person holding lands in the ceded and conquered provinces or in Bundlecund, or a *mocurreree* or *istemrar* tenure granted by the native Governments, it shall be the duty of the collector of the *sillah* in which the lands are situated, to proceed to the assessment thereof, under such instructions as he shall receive from the Board of Commissioners on the subject; and that Board shall apply to the Governor General in Council for special orders, in any case which may appear to call for a deviation from the established rules prescribed for the public assessment; in order that, if the Governor General in Council shall in any case see grounds for granting any abatement from the *jumma*, which on that principle would be assessed on the lands, he may take the subject into his consideration, and may allow such reduction of the *jumma* as may be deemed proper.

Reservation of power to the Governor General in Council to grant an abatement from the *jumma* of the lands which may be so assessed.

Courts of justice restricted from taking cognizance of the question of resumption of grants described in 2d Section of this regulation, or of the assessment of the lands consequent thereto.

III. No court of justice shall on any account take cognizance of the question of resumption of grants of the nature described in the preceding section on the death of the holder, nor of the assessment of the lands consequent thereto. The adjudication of all claims on these accounts, shall rest definitively with the revenue authorities, subject only to the approval of the Governor General in Council.

The courts of justice not restricted from taking cognizance of claims to the actual property in the lands.

IV. Nothing contained in Section 3. shall be construed to preclude the courts of justice from receiving, hearing, trying, and deciding on claims to the actual property in the lands situated within a *mocurreree* or *istemrar*, as well as to all or any of the rights, privileges, or advantages annexed to such property by the existing laws or established usages of the country.

Revenue officers to resume any *mocurreree* tenure which may be proved to be illegal or invalid, during the life of the incumbent.

V. Nothing contained in this regulation shall be considered to deprive the revenue officers of the right to resume, as heretofore, any *mocurreree* tenure proved to be illegal or invalid, during the life of the present incumbent.

Courts of justice prohibited from taking cognizance of claims to such tenures, if the possessor of the grant shall have died subsequently to the cession or conquest.

VI. All such *mocurreree* or *istemrar* having been declared to be life tenures only, the courts of judicature are hereby further prohibited from taking cognizance of any claim to hold any land at a *mocurreree* or *istemrar* rent, by virtue of any grant, the possessor of which may have died at any time subsequent to the cession or conquest.

A. D. 1816. REGULATION XVI.

A REGULATION *for extending for a further Period of five Years the existing Settlement in the Provinces ceded by the Nawaub Vizier to the British Government, in all Cases, in which the Settlement may have been concluded with the actual Proprietors of the Land.*—PASSED *by the Governor General in Council, on the 5th July* 1816*; corresponding with the* 23*d Assaar* 1223 *Bengal era; the* 25*th Assaar* 1223 *Fussily; the* 24*th Assaar* 1223; *Willaity; the* 11*th Assaar* 873 *Sumbut; and the* 8*th Sabaun* 1231 *Higeree.*

Preamble.

WHEREAS the existing settlement of the provinces ceded by the Nawaub Vizier to the British Government will expire with the year 1224 Fussily; and whereas an extension of the said settlement, at an equal *jumma*, in all cases, in which it has been formed with the actual proprietors of the soil, is calculated to promote the interests of the landholders, whilst it will afford due time to the public officers to collect the materials, which are indispensably requisite, as the basis of any ulterior proceeding, the following rules have been enacted, to be in force from the period of their promulgation in the ceded provinces.

The existing settlement of the land revenue of the ceded provinces, in certain cases, to continue in force until the expiration of the year 1229, Fussily.

II. The existing settlement of the land revenue of the provinces ceded by the Nawaub Vizier to the British Government shall, in all cases in which it may have been concluded with *zemindars* or other acknowledged proprietors of land, continue in force until the expiration of the year 1229 Fussily, subject to the following provisions.

The *zemindars* in whose favor a remission on account of a *russeed jumma* may have been sanctioned by Government, will be entitled to the same indulgence during the ensuing quinquennial settlement.

III. If the *russeed* or progressive increase in the *jumma*, demandable from the *zemindars* under their engagements, on account of the year 1224 Fussily, shall in any case have been remitted with the sanction of Government, the *zemindars*, who may have received such remission, shall be deemed entitled to the same indulgence during the ensuing quinquennial settlement.

Zemindars who may be unwilling to hold their lands on the terms above specified for a further period of five years, to notify the same to the collector on or before the 1st March 1817.

IV. If any *zemindars*, who may have entered into engagements for the payment of the public revenue during the existing settlement, shall not be willing to continue to hold their lands on the terms specified in the preceding sections of this regulation, for a further period of five years, viz. to the expiration of the year 1229 Fussily, they shall notify the same to the collector of the *zillah* within which their lands may be situated, on or before the 1st March 1817, corresponding with the 19th Phagoon 1223 Bengal era; the 27th Phagoon 1224 Fussily; the 20th Phagoon 1224 Willaity; the 13th Phagoon 1873 Sumbut; and the 12th Rubee-us-Sanee 1232 Higeree.

Zemindars failing to make that notification within the period above cited, shall be responsible for the payment of the same revenue during the ensuing five years, as may be specified in their engagements for the year 1224 Fussily.

V. All *zemindars*, who shall not make a notification to the effect and within the period above mentioned, shall be held, and are hereby declared to be responsible for the payment of the same revenue during the ensuing five years, viz. until the expiration of the year 1229 Fussily, as may be specified in their engagements for the year 1224 Fussily, subject however to the qualification specified in Section 3 of this regulation.

VI. With respect to estates, which are at present let to farm, and of which the leases will expire with the Fussily year 1224, the settlement of such *mohauls* shall be made with the actual proprietors, in all cases in which they may be willing to engage, during the years

The settlement of estates let to farm, with whom to be concluded.

1225, 1226, 1227, 1228, and 1229, for the payment of an annual *jummá* equal to the amount payable by the farmers respectively on account of the year 1224, and shall make the necessary application to the collector of the district in which the lands may be situated, or to the Board of Commissioners, on or before the 1st March next.

The settlement of lands held *khas* how to be formed.

VII. With respect to lands at present held *khas*, the settlement of all such lands shall be formed for the years 1225, 1226, 1227, 1228, and 1229 with the *zemindárs* or other actual proprietors of land, supposing such persons to be willing to engage for the payment of the public revenue on such terms as may appear reasonable.

The revenue authorities how to proceed with respect to the lands of *zemindárs* who may decline to engage for the payment of the revenue demandable from them, for the ensuing five years.

VIII. In cases, in which the *zemindárs* may decline to engage for the payment of the revenue demandable from their lands during the ensuing five years, or in which no acknowledged propietors of the lands may be forthcoming, it will of course be the duty of the revenue authorities to consider whether the lands shall be let to farm, or whether the rents shall be collected directly from the great body of the *ryots*; or in other words, whether the lands shall be held *khas*, or whether a settlement shall be formed for the above period of five years for the several villages with the head *ryot*, however denominated, of each village respectively.

A. D. 1819. REGULATION VIII.

A REGULATION *to declare the Validity of certain Tenures, and to define the relative Rights of Zemindars and Putnee Talookdars; also to establish a Process for the Sale of such Talooks in Satisfaction of the Zemindar's Demand of Rent, and to explain and modify other Parts of the System established for the Collection of Rents generally throughout Bengal.*—PASSED *by the Governor General in Council, on the* 3*d September* 1819; *corresponding with the* 19*th Bhadoon* 1226 *Bengal era; the* 29*th Bhadoon* 1226 *Fussily; the* 20*th Bhadoon* 1227 *Willaity; the* 14*th Bhadoon* 1876 *Sumbut; and the* 12*th Zekaad* 1234 *Higeree.*

Preamble.

BY the rules of the perpetual settlement, proprietors of estates paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different *mohauls*, were declared to be entitled to make any arrangements for the leasing of their lands in *talook* or otherwise, that they might deem most conducive to their interests. By the rules of Regulation XLIV. 1793, however, all such arrangements were subjected to two limitations; first, that the *jumma*, or rent, should not be fixed for a period exceeding ten years; and secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale. The provisions of Section 2, Regulation XLIV. 1793, by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by Section 2, Regulation V. 1812, and in Regulation XVIII. of the same year it is more distinctly declared, that *zemindars* are at liberty to grant *talooks* or other leases of their lands, fixing the rent in perpetuity at their discretion: subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue, in the same manner as heretofore. In practice the grant of *talooks* and other leases at a rent fixed in perpetuity had been common with the *zemindars* of Bengal for some time before the passing of the two regulations last mentioned, but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations V. and XVIII. of 1812, or in any other regulation, whether tenures at the time in existence, and held under covenants or engagements entered into by the parties in violation of the rule of Section 2, Regulation XLIV. 1793, should, if called in question, be deemed invalid and void as heretofore.—This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force. Furthermore, in the exercise of the privilege thus conceded to *zemindars* under direct engagements with Government, there has been created a tenure which had its origin on the estates of the Raja of Burdwan, but has since been extended to other *zemindaries*—the character of which tenure is, that it is a *talook* created by the *zemindar*, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever: the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this

this obligation at the *zemindar's* discretion; but even if the original tenant be excused, still in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the *zemindar*; by the terms also of the engagements interchanged, it is amongst other stipulations provided, that in case of an arrear occurring, the tenure may be brought to sale by the *zemindar*, and if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand. These tenures have usually been denominated *putnee talooks*, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons, who on taking such leases went by the name of *dur-putnee talookdars*: these again sometimes similarly underlet to *seputneedars*, and the conditions of all the title deeds vary in nothing material from the original engagements executed by the first holder. In these engagments, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant; that is, whether in case the proceeds of sale should exceed the *zemindar's* demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the regulations of Government afford any distinct rules, by the application of which to the specific cases, the defects above alluded to could be supplied, or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner The tenures in question have extended through several *zillah*s of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the courts of civil judicature in regard to them, have been productive of such confusion as to demand the interference of the legislature: It has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a *putnee talook* as above described, also to declare the legality of the practice of underletting in the manner in which it has been exercised by *putneedars* and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the *zemindar*, or other, for his ruin, as well as to secure the just rights of the *zemindar* on the sale of any tenure under the stipulations of the original engagements entered into with him. It has further been deemed indispensible to fix the process by which the said tenures are to be brought to sale, and the form and manner of conducting such sale; and whereas the estates of *zemindars* under engagements with Government are liable to be brought to sale at any time for an arrear in the revenue, payable by monthly *kists* to Government, it has seemed just to allow any *zemindar* who may have granted tenures with a stipulation of the right to sell for arrears, the opportunity of availing himself of this means of realising his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year, as heretofore allowed by the regulations in force: it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though in conformity with the regulations heretofore in force the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid, at the close of the Bengal year. It has been likewise deemed advisable to explain and modify some of the existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters. The following rules have accordingly been enacted by His Excellency the Most Noble the Governor General in Council, to take effect from the date of their promulgation throughout the several districts of the province of Bengal, including Midnapore.

Leases fixing rent in perpetuity, or for a longer term than ten years, declared valid, though executed while Section 2, Regulation XLIV. 1793, was in force.

II. It is hereby declared that any leases or engagements for the fixing of rent now in existence, that may have been granted or concluded for a term of years, or in perpetuity, by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged, notwithstanding that the same may have been executed before the passing of Regulation V. 1812, and while the rule of Section 2, Regulation XLIV. 1793, which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation

of the rule in question:—provided however that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government, from the liability to be cancelled on sale of the said estates for arrears of the said revenue, under the rule of Section 5, Regulation XLIV. 1793, unless specially exempted from such liability by the rule in question, or by any other specific rule of the regulations in force.

Putnee tenures declared valid, transferable, and unanswerable for debts.

III. *First.* The tenures known by the name of *putnee talooks*, as described in the preamble to this regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions; and it is hereby further declared, that they are capable of being transferred by sale, gift, or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the courts of judicature, in the same manner as other real property.

Putneedars' right of underletting, declared.

Second. Putnee talookdars are hereby declared to possess the right of letting out the lands composing their *talooks* in any manner they may deem most conducive to their interest, and any engagements so entered into by such *talookdars* with others shall be legal and binding between the parties to the same, their heirs, and assignees:—provided, however, that no such engagements shall operate to the prejudice of the right of the *zemindar* to hold the superior tenure, answerable for any arrear of his rent, in the estate in which he granted it, and free of all encumbrance resulting from the act of his tenant.

Putnee tenures declared not voidable for arrears.

Third. In case of an arrear occurring upon any tenure of the description alluded to in the first clause of this section, it shall not be liable to be cancelled for the same, under the rule contained in the seventh clause of Section 15, Regulation VII. 1799, for leases conveying a limited interest in the land; but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale, beyond the amount of the arrear of rent due;—subject however to the provisions contained in Section 17. of this regulation.

Inferior tenures held under similar title deeds will be deemed to confer a similar interest to that provided for *putnee talooks* in Section 3.

IV. If the holder of a *putnee talook* shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in the preceding section to attach to *putnee talooks*, in so far as concern the grantor of such under-tenure. The same construction shall also hold in the case of *putnee talooks* of the third or fourth degree.

Zemindar not entitled to refuse to give effect to a transfer.

But may demand his fee.

Fee fixed at two per cent. on the *jumma*.

But the maximum one hundred rupees.

May also demand security, as far as half the *jumma*.

Above rules to apply to sales in execution and all alienations.

But no fee on sale for arrears.

V. The right of alienation having been declared to vest in the holder of a *putnee talook*, it shall not be competent to the *zemindar* or other superior, to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee. In conformity however with established usage, the *zemindar* or other superior shall be entitled to exact a fee upon every such alienation, and the rate of the said fee is hereby fixed at two per cent. on the *jumma* or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account. The *zemindar* shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the *jumma* or yearly rent, payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure. The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of court, as to all other alienations; but it shall not apply to the case of sale for an arrear in the rent due to the *zemindar* or other superior, under the rules hereinafter contained. The purchaser at such a sale shall be entitled to have his name registered, and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.

Zemindar may refuse sanction to transfer, till fee and security be tendered.

VI. It shall be competent to the *zemindar* or other superior to refuse the registry of any transfer, until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted:—provided however, that if the security tendered by any purchaser or transferee, should not be approved by the *zemindar*, and the party tendering

Sufficiency of security, if contested, to be determined by appeal to civil court.

it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the civil court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the *zemindar* to accept it, and give effect to the transfer without delay. It is hereby provided, that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a *putnee talook*, nor to any alienation other than of the entire interest; for no apportionment of the *zemindar's* reserved rent can be allowed to stand good, unless made under his special sanction.

Upon public sale, if security be not tendered within one month, *zemindar* may attach.

VII. In case of the sale of a *putnee* tenure in execution of a judgment of court, if the purchaser do not within the period of one month from the sale conform to the rules of Section 5. of this regulation, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the *zemindar* or other superior shall be entitled of his own authority to send a *sezawul* to attach and hold possession of the tenure, until the forms prescribed be observed. In case also of the sale of a *putnee* tenure for arrears of the rent due upon it, under the rules of this regulation, if security be required by the *zemindar*, and the purchaser fail to furnish the same within one month of the date of sale, the *zemindar* shall similarly be entitled to send a *sezawul* to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given. Attachments made under this section shall be regarded as trusts for the benefit and at the risk of the purchasers; consequently after deducting the rent due and the expence of attaching, any surplus that may be yielded by the collections, shall be held in deposit for such purchaser: but if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the *zemindar* or other superior making the attachment shall be received as *prima facie* evidence to warrant process for an arrear so accruing.

Attachment to have the effect of a trust.

Zemindars to be allowed periodical sales of tenures, in which right to sell for arrears is reserved by stipulation.

VIII. *First. Zemindars*, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures, upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure. The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the regulations in force.

First sale to be applied for on the first of Bysaak.

Second. On the first day of Bysaak, that is, at the commencement of the following year from that of which the rent is due, the *zemindar* shall present a petition to the civil court of the district, and a similar one to the collector, containing a specification of any balances that may be due to him on account of the expired year from all or any *talookdars* or other

Notice to be published that it will take place on the first of Jyte.

holders of an interest of the nature described in the preceding clause of this section. The same shall then be stuck up in some conspicuous part of the *cutcherree*, with a notice that if the amount claimed be not paid before the first of Jyte following, the tenures of the defaulters will on that day be sold by public sale in liquidation. Should however the first of Jyte fall on a Sunday, or holidays, the next subsequent day, not a holiday, shall be selected

Notice to be sent into the *mofussil*.

instead: a similar notice shall be stuck up at the *sudder cutcherree* of the *zemindar* himself, and a copy or extract of such part of the notice as may apply to the individual case, shall be by him sent, to be similarly published at the *cutcherree*, or at the principal town or village

Rules for serving it.

upon the land of the defaulter. The *zemindar* shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the *mofussil* shall be served by a single *peon*, who shall bring back the receipt of the defaulter, or of his manager for the same; or in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot. If it shall appear, from the tenor of the receipt or attestation in question, that the notice has been published at any time previous to the fifteenth of the month of Bysaak, it shall be a sufficient warrant for the sale to proceed upon the day appointed. In case the people of the village should object or refuse to sign their names in attestation, the *peon* shall go to the *cutcherree* of the nearest *moonsiff*, or if there should be

no *moonsiff*, to the nearest *thana*, and there make voluntary oath of the same having been duly published—certificate to which effect shall be signed and sealed by the said officers, and delivered to the *peon*.

Mid year sale to be applied for on the first of Kautic.

Third. On the first day of Kautic in the middle of the year, the *zemindar* shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year up to the end of the month of Assin, and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aughun, unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kautic to less than one-fourth, or a four-anna proportion of the total demand of the *zemindar*, according to the *kistbundee*, calculated from the commencement of the year to the last day of Kautic.

Notice as above for sale the first of Aughun.

If arrear be not less than one-fourth of demand.

Register to conduct the sale.

IX. All sales of saleable tenures applied for under the rules of this regulation, shall be made in public *cutcherree* by the register or acting register of the civil court, or in his absence by the person in charge of the office of judge or of magistrate of the district, within which the lands may be situated; the land shall be sold to the highest bidder, and every one not the actual defaulter, shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter: fifteen per cent. of the purchase money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hours. If the fifteen per cent. be not paid in cash or in notes of the Bank of Bengal, within two hours of the sale, or an equivalent amount in government securities be not lodged, the lot shall be resold on the same day, and if the remainder of the purchase money be not paid by noon of the eighth day, notice shall be given of resale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the *bazar* of the *mufussil* station of the *zillah*, after which the lot shall be resold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already made, (which shall be in such case regarded as part of the proceeds of the sale,) and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the civil courts.

Rule's for bidding, &c.

Fifteen per cent. to be paid on sale.

Or lot to be re-sold after two hours.

Falling remainder, resale on ninth day after.

X. At the time of sale the notice previously stuck up in the *cutcherree* shall be taken down, and the lots be called up successively in the order in which they may be found in that notice. A person shall attend on the part of the *zemindar* with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the *mofussil*; nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate *roobukaree* to be held upon each lot sold. If the sale be of the description provided for in the third clause of Section 8. of this regulation, the *kistbundee* of the defaulter shall likewise be produced, in order that it may be seen, that the balance remaining unpaid exceeds a four anna proportion of the demand up to the date of sale, nor shall the sale take place unless this be ascertained. The *zemindar* shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this regulation.

Forms, to be observed on selling.

Zemindar to certify balances.

And service of notice in *mofussil*.

On his own responsibility.

XI. *First.* It is hereby declared, that any *talook* or saleable tenure that may be disposed of at public sale under the rules of this regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives, or assignees; unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said *talook* may have been held. No transfer by sale, gift, or otherwise, no mortgage or other limited assignment, shall be permitted to bar

Tenure to be sold free of incumbrance by act of defaulter.

bar the indefeasible right of the *zemindar* to hold the tenure of his creation answerable in the state in which he created it, for the rent, which is in fact his reserved property in the tenure: except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such *zemindar*.

No under-lease to stand after sale.

Second. In like manner, on sale of a *talook* for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land, and to collect the rents of the *ryots*; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.

Exception in favour of *bonâ fide* engagements with *ryots*.

Third. Provided nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a *talook* or other saleable tenure intermediate between *zemindar* and actual cultivators, to eject a *khodkast ryot*, or resident and hereditary cultivator, nor to cancel *bonâ fide* engagements made with such tenants by the late incumbent, or his representative, except it be proved in a regular suit, to be brought by such purchaser, for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor.

Above rule to take effect retrospectively.

XII. The rules of the preceding section being declaratory of the principle to be observed on all occasions, wherein saleable tenures are made responsible for the *zemindar's* reserved rent, will equally apply to the case of *talooks* heretofore sold, as to those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it, shall have been that recognized and in use in the district at the time of selling. Nothing however herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a *talook* and the lessees of his predecessor.

Proviso.

But not to apply to private transfers.

Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a *talookdar* of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the *talookdar* in favour of the *zemindar*, nor to any act originating with the former holder, other than default as aforesaid; all such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act.

Reason for allowing under-tenants a means of staying sale.

XIII. *First.* With reference to the injury that may be brought upon the holder of a *talook* of the second degree, by the operation of the preceding rules, in case the proprietor of the superior tenure purposely withholds the rent due from himself to the *zemindar*, after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such *talookdars* the means of saving their tenures from the ruin that must attend such a sale, and the following rules have accordingly been enacted for this purpose.

Manner of doing so.

Second. Whenever the tenure of a *talookdar* of the first degree may be advertised for sale in the manner required by the second and third clauses of Section 8. of this regulation, for arrears of rent due to the *zemindar*, the *talookdars* of the second degree, or any

By lodging the advertised balance.

number of them, shall be entitled to stay the final sale, by paying into court the amount of balance that may be declared due by the person attending on the part of the *zemindar* on the day appointed for sale: in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale; and should the amount lodged be sufficient, the sale shall not proceed, but after making good to the *zemindar* the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

In case of rent due being lodged.

Credit to be given.

Third. If the amount so lodged shall be rent due by the inferior *talookdar* to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

Fourth. If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the *talook* so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto. If the defaulter shall desire to recover his tenure from the hands of the person or persons, who by making the advance may have required such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve per cent. per annum, up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realised from the usufruct of the tenure.

In case of advance from private funds,

To have the effect of mortgage.

Defaulter how to recover possession.

XIV. *First.* Should the balance claimed by a *zemindar*, on account of the rent of any under-tenure, remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve in the manner provided for in Sections 9. and 10. of this regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged. It shall however be competent to any party desirous of contesting the right of the *zemindar* to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the *zemindar* for the reversal of the same, and upon establishing a sufficient plea, to obtain a decree with full costs and damages. The purchaser shall be made a party in such suits, and upon decree passing for reversal of the sale, the court shall be careful to indemnify him against all loss, at the charge of the *zemindar* or person at whose suit the sale may have been made.

Sale not to be stayed, except the arrear claimed be lodged.

But action to lie for its reversal.

Second. In cases also in which a *talookdar* may contest the *zemindar's* demand of any arrear, as specified in the notice advertised, such *talookdar* shall be competent to apply for summary investigation, at any time within the period of notice; the *zemindar* shall then be called upon to furnish his *cubooleut* and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale. Such award, if so made, will of course regulate the ulterior process; but if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit; and if the *zemindar* or his agent in attendance insist on the demand, the sale shall be made on his responsibility; nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash or in Government securities, or in notes of the Bank of Bengal, by the *talookdar* contesting the demand; and if such deposit be not made, the alleged defaulter will have no remedy, but by a regular action for damages and for a reversal of the sale.

Summary investigation may be applied for by defaulter.

But not to stay sale without deposit.

XV. *First.* So soon as the entire amount of the purchase money shall have been paid in by the purchaser, at any sale made under this regulation, such purchaser shall receive from the officers conducting the sale, a certificate of such payment. The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the *cutcherree* of the *zemindar*, and upon furnishing security, if required, to the extent of half the *jumma* or annual rent, he shall receive the usual *umildustuk*, or order for possession, together with the notice to the *ryots* and others to attend and pay their rents henceforward to him. The *zemindar* shall also be bound to furnish access to any papers connected with the tenure purchased, that may be forthcoming in his *cutcherree*; and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished, or tendered, on requisition, the new purchaser shall be entitled to apply direct to the court, and he shall receive the orders for possession, and shall be put in possession of the lands by means of the *nazir*, in the same manner as possession is obtained under a decree of court: provided however, that if the delay be on account of the *zemindar's* contesting the sufficiency of the security tendered, the rule contained in Section 6. of this regulation shall be observed.

Rules for purchasers obtaining possession.

Zemindar to give transfer on security being furnished, if required.

Remedy in case of delay.

Proviso.

Second.

In case of opposition,

Second. When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the civil court, for the aid of the public officers in obtaining possession of his just rights. A proclamation shall then issue, under the seal of the court and signature of the judge, declaring, that the new incumbent having, by purchase at a sale for arrears of rent due to the *zemindar*, acquired the entire rights and privileges attaching to the tenure of the late *talookdar*, in the state in which it was originally derived by him from the *zemindar*, he alone will be recognised as entitled to make the *zemindaree* collections in the *mofussil*, and no payments made to any other individual will on any account be credited to the *ryots* or others in any summary suit, for rent, brought under the provisions of Section 15, Regulation VII. 1799, or in any application to stay process by distraint, under the rules of Regulation V. 1812, or on any other occasion whatever, when the same may be pleaded.

Proclamation to issue from court.

In case of further opposition,

Third. Should the late incumbent, or his late under-tenants, continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police officers, and of all other public officers who may be at hand, and capable of affording assistance, shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

Police and all public officers to aid.

Under-tenures how to be brought to sale for arrears.

XVI. Under-tenures held under engagements similar to those executed between the *zemindar* and *putneedar*, having been declared not to be voidable for an arrear of the rent fixed upon them in perpetuity, it will be necessary that the person to whom the said rent may be payable, should (in case he be desirous of holding the tenure answerable in the manner provided for by stipulation in the deeds interchanged) proceed according to the rules of Section 15, Regulation VII. 1799, and the general regulations, to have the sale effected at the end of the year, in the same manner as heretofore. But it is hereby provided, that every such sale shall be public, and be conducted by the register or acting register of the *zillah* court, or in his absence, by the person in charge of the office of judge or of magistrate under the rules of this regulation, as far as the same may be applicable; ten days notice shall be given of such sales, by advertisement, to be stuck up at the *cutcherrees* of the court and collector.

Rules for disposing of the purchase money of sales for arrears under this regulation.

XVII. *First.* The following rules have been enacted for the disposal of the proceeds of any sale made under the rules of this regulation.

One per cent. to be carried to the account of Government.

Second. One per cent. shall first be deducted from the net proceeds realized, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain, for carrying into effect the provisions of this regulation.

Zemindar's balance and expenses to be next made good.

Third. The balance on account of which the sale may have been made, shall next be made good in full (with interest and all charges incurred in bringing the *talook* to sale) to the *zemindar* or other person to whom the same may be due: provided however that no former balances, beyond those of the current year, (or of that immediately expired, if the sale be at the commencement of the following year,) shall be included in the demand to be thus satisfied. Such antecedent balances, if the *zemindar* shall have omitted to avail himself of the process within his reach, for having them satisfied at the time, will have become in fact mere personal debts of the individual *talookdar*, and must be recovered in the same way as other debts by a regular suit in the court.

But not antecedent balances.

Remainder to be sent to the collector's treasury, to answer claims of under-tenants.

Fourth. Any excess that may remain after satisfying the demand of the *zemindar*, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the collector or assistant collector of the district, to be there held in deposit, to

answer the claims of the *talookdars* of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the *talook* sold, or on any part of it.

Fifth. It shall be competent to any one conceiving himself to possess such an interest, to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale. If the court shall on investigation consider the plaintiff's claim to be an equitable one, the court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.— If there be more claimants than one, payment shall not be made from the deposit, until the whole of the claims be settled; and in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realized from him by the usual process for the execution of decrees.

Under-tenants free to prosecute for the price of their interest or compensation.

Payment how to be made from deposit if many claims.

Sixth. Provided however that no *talookdar* of the second degree, or other possessor of an assigned interest upon the land of the tenure sold, who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior *talook*, except after exhibiting proof that the whole amount of the rent demandable from himself, has been paid or lodged for the purpose, prior to the date of sale.

Action not to lie, if the under-tenant be himself in arrear at the time of sale.

Seventh. Should no claims upon the purchase money of a *talook* sold as above, be brought forward by any under-tenants or assignees, within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold, shall be at liberty to petition the court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall receive a certificate under the seal of the court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and upon exhibiting such certificate to the collector, the amount set free thereby shall be paid to his receipt. In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the court declaring the amount adjudged to them out of the deposit, and upon exhibiting these certificates, the amount shall be paid severally to their receipts by the collector.

In case of no claim in two months, or only partial claims, defaulter to receive the excess unclaimed.

Eighth. It shall be competent to any party interested in a deposit, to withdraw the whole or any part thereof, on substituting Government securities, bearing interest, in lieu of the money so held in deposit, such securities to be taken at the rate of discount or premium of the day, as shown by the Government Gazette last received.

Any party interested may substitute Government securities for cash in deposit.

XVIII. *First.* Doubts have been entertained with respect to the intent and meaning of such part of Section 15, Regulation VII. 1799, as regards the power of attaching the lands of a defaulter, particularly whether the attachment can be made in case the *dustuk* be not served on the person of the under-tenant from whom the arrear of rent is claimed: moreover it has not been provided in any part of the rules above quoted, nor in any subsequent regulation, whether or not a decree can be passed after summary investigation of an arrear claimed, in case the process by *dustuk* shall not have been served on the defaulter. In consequence of these doubts and omissions, under-tenants falling in arrear have been encouraged to make it a practice to evade the process by *dustuk*, in the confidence that if successful in concealing themselves for a time, the person to whom the rent is due will lose the benefit of his summary application, and be referred to a regular suit, as the only means of recovering his dues, or of obtaining such judicial award as will enable him to proceed against the property of the debtor. In order to remedy the evils arising from the practice above described, the following rules have been enacted, in explanation and modification of the rules of Section 15, Regulation VII. 1799.

Doubts in the construction of Section 15, Regulation VII. 1799, stated.

And their effects.

Second. Under the existing rules, proprietors, *talookdars*, or farmers, are entitled, with or without making a previous demand upon the under-tenant, to institute a summary suit

After summary suit lodged.

for any arrear which may be claimed to be due, and to obtain the issue of a process of arrest against the defaulter. It is hereby further provided, that when a summary suit for arrears alleged to be due, may have been instituted against a *talookdar* or against a farmer, or against the holder of any other intermediate tenure between the *zemindar* and the actual cultivators, it shall be competent to the party who may have instituted such suit, (whether the alleged defaulter shall have been arrested or not,) to send a *sezawul* of his own authority to attach and collect the rents of the actual cultivators immediately from themselves: provided however, that such power of attachment shall not be exercised, unless the arrear of rent claimed in the summary suit, shall have been actually due for one entire month before the date of attachment, and shall not be less in amount than the entire *kist* of the month, on account of which the arrear may be claimed.

The right of attaching *talooks*, farms, and similar tenures declared.

With proviso.

Summary decree to pass *ex parte* in case of return non-inventus.

Form to be observed.

Third. After process of arrest may have been taken out in the usual form, if the return of the *nazir* be, that after diligent search the party cannot be found, it shall be optional with the plaintiff to move the court by his *vakeel* or authorized agent to solicit a postponement of the case for a month, in order to cause another process to be served at any time in the course of it, that may afford the chance of securing the person of the defaulter, and then to have a notice issued and the case brought to judgment; or to cause proclamation to be made without such postponement, that after fifteen days from the date of notice, the court will proceed to a summary investigation of the balance, and in case of the non-attendance of the defendant, will pass judgment summarily upon the documents and proofs that may be exhibited by the plaintiff *ex parte*.

After summary decree *zemindar* may cancel farms and the like.

No exception against separate real property.

Fourth. When an arrear may be adjudged to be due in the manner above provided, the *zemindar* or other plaintiff in the suit shall be at liberty to cancel of his own authority any lease, farm or other limited interest intermediate between himself and the actual cultivator, on account of which the rent may have been claimed; but no summary award for arrears shall be considered to warrant the subjecting real property belonging to the defendant, in such an action, to sale in execution, except in cases in which the balance may be due on account of a *talook* of the description noticed in Section 3. of this regulation, or of any other *talook*, which may have been declared by the regulations to be liable to sale for arrears: such *talook* will of course be liable to be sold for the arrears which may have accrued upon it, in the mode prescribed; but if the *zemindar* or other plaintiff should be desirous of having any other estate, or house, or landed property of a defaulter, brought to sale in satisfaction of his claim of rent, it will be necessary for him to institute a regular suit for the purpose, notwithstanding the existence of the summary award in his favour.

Tenures of *ryots* not to be attached or cancelled for arrears.

Except by summary suit at the end of the year.

Fifth. The provisions contained in the second and fourth clauses of this section, so far as they relate to the power of attaching and cancelling (under the circumstances therein described) the leases, farms, or other limited interests of persons holding intermediately between the proprietor and the actual cultivator, are hereby declared not to extend to *khodkast ryots*, or other resident cultivators of the soil. For any arrears which may be alleged to be due from those classes of persons, the party claiming them may proceed at any time during the year by distraint, or by process of arrest and summary suit, under the existing rules; proprietors, *talookdars*, or farmers, however, to whom an arrear of rent may be due at the end of the year from any *khodkast ryot* or other resident cultivators of the soil, are at liberty to institute a summary suit to establish the existence of such an arrear, taking out process of arrest in the usual form.—If the defendant shall not attend or cannot be arrested, the forms of process and proceeding prescribed in the third clause of this section, shall be considered to the applicable to the case, and any summary judgment previously obtained on account of rent of the year just closed, shall be received as evidence of such arrear, upon the plaintiff's shewing that the judgment in question has remained unexecuted. If an arrear shall be adjudged by the court to be due, and the amount shall not be immediately paid into court, the plaintiff shall be authorized by the court to make such new arrangements as he may judge proper for the future management of the lands in question.

Optional for *zemindars* to take out arrest from the court having jurisdiction over the tenure.

XIX. In addition to the rules contained in Section 15, Regulation XIX. 1817, it is hereby provided, that any *zemindar*, *talookdar*, farmer, or other person entitled to receive rent, who may desire to take out summary process against the person of a defaulter, shall be

at liberty to make application for the purpose either to the judge of the district within which the land may be situated, or of the district wherein the defaulter may be at the time resident, at his option. In the event of his applying to the judge of the district, within which the defaulter may not be resident, the process shall be transmitted by dawk to the judge of the district where he may reside, in order to be there served in the usual form. The defaulter, if apprehended, shall be sent over in custody; or if he should not be found, so that the process cannot be served, a return shall be made accordingly, and the deposition of the *peon* employed shall further be taken, to be sent along with the return for the satisfaction of the judge issuing the process, as to the efforts made to apprehend the defaulter.

Or from that of the place of residence.

Process in latter case.

A. D. 1820. REGULATION I

A REGULATION *for providing that all Sales for certain Talooks made answerable by Sale for Arrears of the Zemindars' Rent, shall be conducted in the Mode prescribed by Regulation VIII.* 1819, *for the Sales therein described.*—PASSED *by the Governor General in Council, on the* 11*th January*, 1820; *corresponding with the* 28*th Poose* 1226 *Bengal era; the* 11*th Maug* 1227 *Fusilly; the* 29*th Poose* 1227 *Willaity; the* 11*th Maug* 1876 *Sumbut; and the* 24*th Rubee-ul-Awul* 1235 *Higeree.*

Preamble.

WHEREAS it has been omitted to provide in the rules of Regulation VIII. 1819, whether, in case the proprietor of an estate paying revenue to Government, should desire to bring to sale a saleable tenure of the nature defined in clause first, Section 8. of that regulation for the realisation of arrears of rent due thereupon, by any legal process other than that prescribed by the second and third clauses of the said section, such sale should be made in the public manner provided for the periodical sales therein described; and whereas it is consonant with justice, and was intended by the said regulation, that, in every case of the sale of such tenures for arrears of the *zemindar's* rent, the sale should be public, for the security of the interests of the owner of the tenure sold; which object can in no manner be duly secured, except the sales to be so made be conducted by an officer of Government, in the same manner as the periodical sales provided for by Section 8. of the said regulation: the following additional rule has accordingly been passed by the Governor General in Council, to take effect from the date of its promulgation, within the several districts of Bengal, including Midnapore.

The rules of regulation VIII. 1819, for periodical sales for the *zemindar's* arrears of rent, extended to other sales for rent.

II. *First.* Whenever the proprietor of an estate paying revenue to Government shall desire to cause any tenure of the nature of those described in clause first, Section 8, Regulation VIII. 1819, to be sold for arrears of rent due to him on account thereof, and shall, under any summary process authorized by the general regulations, have acquired the right of causing such sale to be made, the same shall be conducted, after application from the *zemindar*, by the register or acting register of the *sillah* or city court, or in his absence by the person in charge of the office of judge of the district, in the mode prescribed by Regulation VIII. above quoted for periodical sales.

Ten days notice to be given by proclamation.

Second. Ten days notice shall be given before proceeding to sale, by proclamation, to be stuck up at the *cutcherree* of the court, and at that of the collector of the district.

Sections 9, 11, 13, 15, and 17, Regulation VIII. 1819, extended to sales under this regulation.

Third. The rules of Sections 9, 11, 13, 15, and 17, Regulation VIII. 1819, are extended to all sales made after the manner herein provided.

A. D. 1822. REGULATION VII.

A REGULATION *for declaring the Principles according to which the Settlement of the Land Revenue in the ceded and conquered Provinces, including Cuttack, Puttaspore, and its Dependencies, is to be hereafter made, and the Powers and Duties belonging to Collectors or other Officers employed in making, revising, or superintending Settlements; for continuing, with certain Exceptions, the existing Leases within the said Provinces for a further Term of five Years; for defining, settling, and recording the Rights and Obligations of various Classes and Persons possessing an Interest in the Land, or in the Rent or Produce thereof; and for vesting the Revenue Authorities with judicial Cognizance in certain Cases of Suits and Claims relating to Land, the Rent and Produce of Land.*—PASSED *by the Governor General in Council, on the 8th August 1822; corresponding with the 25th Sawun 1229 Bengal era; the 5th Sawun 1229 Fussily; the 26th Sawun 1229 Willaity; the 6th Sawun 1879 Sumbut; and the 19th Zekaad 1237 Higeree.*

Preamble.

WHEREAS the existing settlement of the land revenue in the ceded provinces will expire with the present Fussily year, and it has therefore become necessary to declare and enact the principles and rules according to which the demand of the state is thereafter to be regulated, and the manner in which future settlements and revisions of settlements are to be conducted;—and whereas, a moderate assessment being equally conducive to the true interests of Government and to the wellbeing of its subjects, it is the wish and intention of Government, that in revising the existing settlement, the efforts of the revenue officers should chiefly be directed not to any general and extensive enhancement of the *jumma*, but to the objects of equalising the public burthens, and of ascertaining, settling, and recording the rights, interests, privileges, and properties of all persons and classes owing, occupying, managing, or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or re enue payable on account of land, or the produce of land, or paying, or receiving any cesses, contributions, or perquisites to or from any persons resident in, or owning, occupying, or holding parcel of any village or *mohaul*; and whereas, with these views and intentions, the Governor General in Council has considered it to be expedient and proper, with the exception hereinafter specified, to continue the existing assessment in all cases in which the settlement has been formed with *semindars* or other persons acknowledged as proprietors or possessors of a permanent interest in the *mohaul* for which they may have engaged, until a new settlement can be made, combining with the revision of the Government *jumma* and the deliberate investigation of the facts, by the determination of which its amount must be regulated, a full inquiry into, and a careful settlement of the rights and interests of all classes connected with the land; and whereas the same principles are applicable to the district of Cuttack, the *pergunnah* of Puttaspore and its dependencies, of which the settlement will expire with the present Umlee year; and whereas it has appeared expedient to make special provision for the early settlement of the districts of Goruckpore, the *chucla* of Asimgurh, the *pergunnah* of Puttaspore and its dependencies; and whereas it is also advisable to provide for the revision of the settlement of the conquered provinces and of the province of Bundlecund, pending the continuance of the existing leases; and whereas it is the desire of Government that the proceedings held and the records formed by the collectors, when

making settlements or otherwise specially employed in conducting inquiries of the above nature, should be such, as that all demands, claims, and suits may be adjudged and determined according to the facts therein stated, until the same shall have been formally altered, or it shall be shewn by the result of a full investigation in a regular suit, that the proceeding or record of the collector was erroneous or incomplete; and whereas it is necessary to declare and define the powers and authority to be vested in collectors in the conduct of the said inquiries, and the adjustment of the differences arising out of, or made known by them; and whereas it further appears advisable that the revenue officers should, in certain cases, be vested with authority judicially to receive, hear, investigate, and determine suits, claims, and demands of the above description; and whereas it appears to be expedient, to declare and explain the views and intentions of Government relative to the rights to be enjoyed and exercised by the *sudder malguzars*, or persons admitted to engage for the payment of the Government revenue, and by persons collecting the rents of the land or revenue of Government, without being subject to the payment of any portion of it to the public treasury, such as *jaghiredars* and other owners or managers of *lakheraj* lands, and it is particularly necessary in the case of estates held in *putteedaree* or *bhyachara* tenure to make further provision for protecting the sharers who have not been admitted to engagements with Government, against the encroachments of the *sudder malguzar*, and likewise to secure the latter against the consequences of the embezzlement or misappropriation by the former, of the funds whence the Government revenue ought to be discharged.

For the purposes and objects above specified, the following rules have been enacted, to be in force from the date of their promulgation, throughout the ceded and conquered provinces in the district of Cuttack, the *pergunnah* of Puttaspore, and its dependencies.

The existing settlement in the ceded provinces to be extended in certain cases for a further period of five years.

II. *First.* The existing settlement of the land revenue in the ceded provinces, with the exception hereinafter specified, shall in all cases in which it may have been concluded with *zemindars* or persons acknowledged as the proprietors or possessors of a permanent interest in the *mohaul* for which they have engaged, continue in force until the expiration of the year 1234 Fussily, subject to the following provisions.

So also the settlement in Cuttack.

Second. In like manner and subject to the same provisions, the existing settlement of the land revenue in the district of Cuttack shall, in all cases wherein it may have been concluded with persons of the above description, continue in force until the end of the year 1234 Umlee.

Proclamations issued by the Revenue Boards and commissioners, notifying the proposed extension of the settlement, sanctioned and confirmed.

Zemindars failing to notify their intention to relinquish their lands under the said proclamations, shall be held responsible for the payment of the present *jumma*, during the ensuing five years.

Third. The Board of Commissioners in the ceded and conquered provinces and the commissioner in Cuttack, having under instructions from the Governor General in Council, caused proclamations to be issued in the several districts under their authority, declaring the resolution of Government to extend the existing leases as above, and requiring all *zemindars* and other persons aforesaid, who might be unwilling to continue their engagements for a further period of five years, to notify the same to the collector of the *zillah*, the said proclamations are hereby sanctioned and confirmed; and all *zemindars* and other persons aforesaid who shall not have made a notification to the effect and within the period thereby required, shall be held and are hereby declared to be responsible for the same revenue for each of the ensuing five years, viz. until the expiration of the year 1234 Fussily, or 1234 Umlee as the case may be, as may be demandable from them on account of the present year.

Goruckpore and Azimgurh excluded from the operation of the foregoing clauses.

Zemindars of these districts to hold on from year to year, until a new settlement shall be made.

Fourth. The districts of Goruckpore and Azimghur are excluded from the operation of the rules contained in the preceding clauses of this section. The *zemindars* and other persons aforesaid within the said districts shall be allowed to hold, from year to year, the *mohauls* for which they may now be under engagements, subject to the payment of the *jumma* demandable on account of the present year, until the revenue officers shall be prepared to commence a careful revision of the settlement of their respective estates; and all engagements into which such *zemindars* and other persons may have entered, or shall enter, with the local revenue authorities for continuing their present leases as aforesaid, are hereby confirmed.

The existing leases in Puttaspore and its de-

Fifth. In like manner the *zemindars* and other persons aforesaid within the *pergunnah* of Puttaspore and its dependencies, shall similarly be allowed to hold, from year to year,

the *mohauls* for which they may now be under engagements, until a proper settlement of the same can be made.

pendencies, to be similarly continued from year to year

Sixth. Provided also, that it be hereby declared and enacted as a general rule, that if any *zemindar* and other *malguzar* as aforesaid, who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any *mohaul*, shall be allowed by the revenue authorities to continue in the management of such *mohaul* after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such *mohaul*, or the settlement, assessment, or collection of the rents of such *mohaul*, in, or on account of any year subsequent to the term of such engagement, such *zemindar* or other *malguzar* aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon. Provided further, that it shall be competent for collectors or other officers exercising the powers of collectors, with the sanction of the Board or commissioner to whom they may be subordinate, at any time, not being more than six months previous to the expiration of a settlement, to call upon the *zemindars* or other *malguzars*, as aforesaid, to declare, whether or not they are willing to continue their engagements for the ensuing year: and if such *zemindars* or other *malguzars* shall not forthwith notify their refusal to do so, they shall be held to have agreed to such an extension of their leases at the existing assessment, and so on, from year to year, as aforesaid. *Zemindars* or other *malguzars* who may be allowed to hold on from year to year, shall not be chargeable with any additional revenue on account of any year, unless the collector or other officer exercising the powers of collector, shall notify his intention to revise the assessment, on or before the commencement of such year, unless where otherwise specially provided.

General rule relative to *zemindars* holding on, after the expiration of their leases.

Collectors authorised, with the sanction of the Board, to require *zemindars* to state, whether they are willing to continue their engagements.

Zemindars allowed to hold on, shall not be chargeable with additional revenue excepting in certain cases.

III. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases for such a period as the Governor General in Council may direct. A preference shall be given to the *zemindars* or other persons possessing a permanent property in the *mohauls*, if willing to engage for the payment of the public revenue on reasonable terms: provided also, that in cases wherein such *mohauls* may be let in farm, the term of the lease granted to the farmers shall not exceed twelve years. The above rules shall likewise be applicable to estates now held *khas*. So in any cases wherein the *zemindars* and other proprietors may refuse to continue their existing engagements, or to enter into new engagements on equitable terms, it shall be competent to the revenue authorities to let the lands in farm, for such period not exceeding twelve years, as the Governor General in Council shall appoint, or to assume the direct management of them, and to retain them under *khas* management during the period aforesaid, or such shorter period as may be judged proper. Provided further, that if in any case it shall appear to the revenue authorities, that the continuance or admission of any *raja*, *zemindar*, *talookdar*, or other person, who may have engaged, or may claim to engage for any *mohaul* or *mohauls*, in, or to the management of such *mohaul* or *mohauls*, would endanger the public tranquillity, or otherwise be seriously detrimental, it shall be their duty to report the circumstance to Government, and it shall be competent to the Governor General in Council, by an order in Council, to cause such *mohaul* or *mohauls* to be held *khas* or let in farm, for such term as may appear expedient and proper, not exceeding the period above specified.

Settlement how to be made for farmed estates.

For estates held *khas*.

For estates of recusant *zemindars*.

Cases in which *zemindars* may be excluded from, or deprived of the management of their estates.

IV. In admitting particular parties to engage, it was in no degree the intention of Government to compromise private rights or privileges, or to vest the *sudder malguzars* with any rights not previously possessed by them, excepting in so far as their interest in the land for which they may have engaged, might be improved by the limitation of the Government demand, or otherwise by the resignation in their favour of rights previously vested in Government itself, or as it may have been found necessary with a view to the punctual realisation of the public dues, to vest the *sudder malguzar*, by special regulation, with authority of distraint, or other powers of coercion over the under-tenants. On the contrary, it is the anxious desire of Government, and the bounden duty of its officers, to secure every one in the possession of the rights and privileges which he may lawfully possess, or be entitled to possess. In pursuance of this principle, it is hereby declared and enacted, that nothing in the above provisions for extending the existing leases, or in the stipulations

The admission of particular parties to engage for the payment of the public revenue, shall not bar the revenue officers from interfering to adjust the rights of other persons or classes.

of the existing settlements, do or shall be construed to bar the revenue officers duly empowered in that behalf, from interfering to adjust the respective rights of the *zudder malguzars* and their under-tenants; nor shall any claims to a remission or abatement of revenue be admitted on the ground of any decision or order passed in that behalf: but if such decision or order shall operate materially to reduce the profits derived by any *zemindar* or *malguzar* from the *mohaul* owned or managed by him, it shall be competent for such *zemindar* or *malguzar* to relinquish his engagements, and the revenue officers shall in such case proceed to make a settlement of the *mohaul de-novo*.

But if the profits of any *zemindar* be materially reduced by any order or decision of such officer, he shall be at liberty to relinquish his engagements.

Existing provisions relative to *mulikana* and *nankar* rescinded.

V. *First.* The provisions contained in the existing regulations, regarding the allowance to be made to *zemindars* and other *malguzars* who may be excluded from the management of *mohauls* owned or claimed by them, whether as *mulikana* or *nankar*, are hereby rescinded.

Malkana to be allowed to proprietors of estates farmed or held *khas*.

Second. The proprietors of estates let in farm or held *khas* shall be entitled to receive an allowance of *mulikana*, at such rate as the Board of Commissioners, or other authority exercising the powers of that Board, may determine; any thing in the existing regulations notwithstanding: the said *malikana* to be apportioned in cases in which several proprietors may have heretofore held an estate under one common assessment, whether in joint tenancy or otherwise, according to the shares of each respectively; provided also, that the *malikana* allowance granted to the proprietor or proprietors of any *mohaul*, shall not in any case be less than five per cent. on the net amount realized by Government from the lands; nor shall it exceed ten per cent. on that amount without the special sanction of the Governor General in Council. Provided further, that if the said proprietors shall in any case be in the receipt of any perquisite or the profits of any lands in lieu of the *nankar* formerly granted to them by the native Governments, or otherwise in consideration of their proprietary tenure, the amount of such allowance shall be deducted from the *mulikana* to which they are by this section declared to be entitled: provided also, that this rule shall not apply to such *zemindars* as may continue in the occupancy of their tenures, whilst the *mohaul* in which they are included is held *khas* or farmed, or of any part of them, that is to say, *zemindars* who may cultivate or lease their lands, and pay the revenue to the farmer or Government officer; nor without the special sanction of Government to any *malguzar*, *zemindar*, or other proprietor or holder of land who may directly or indirectly continue to draw any allowance from the *ryots* of the lands farmed or held *khas*: provided also, that *malguzars* not being actual proprietors of the land included in the estate for which they may have formerly been under engagements, though recorded in the accounts of past settlements as *zemindars*, *talookdars*, or the like, or being proprietors of a part only of such land, shall not receive the above allowance on the *jumma* of the estate, but shall receive such allowance in lieu of their title of management, as it may appear to Government to be equitable to assign, in addition to the *malikana* to which they may be entitled on account of any lands held by them in actual property, and of which they may not retain the occupancy: and no *mulikana* shall be granted to any *zudder malguzar* on account of lands, the occupants of which may deny his right of property, until he shall have established his right by a regular suit in a court of justice or to the satisfaction of the Board. But in such cases, such provision will be made for the intermediate support of the party, as the Governor General in Council may, on the recommendation of the Board, see fit to direct.

How to be apportioned among several proprietors.

Not to be less than five, nor without special sanction of Government, more than ten per cent. on the Government *jumma*.

Subject to what deduction.

No *malkana* allowance under this rule to be granted to *zemindars*, who may continue to occupy their lands under the farmer or Government officer.

Nor without special sanction to *zemindars* making collections from the *ryots*.

Provision for the case of *malguzars* not proprietors, or only part proprietors of the *mohauls* for which they may have been under engagements.

Third. Provided also, that if any *zemindar* or *zudder malguzar* shall have been called upon by a collector, or other officer exercising the powers of a collector, to state the highest amount of *jumma*, for the payment of which he may be willing to engage, and shall have stated the same accordingly; the sum so stated by such *zemindar* or *zudder malguzar*, and not the *jumma* ultimately realised by Government, shall form the basis on which his *mulikana* allowance shall be adjusted; and in such case, it shall and may be lawful for the revenue authorities to limit the said allowance to five per cent. on the said sum, or to a portion thereof, according to the extent of the proprietary interest possessed by the said *zemindar* or *zudder malguzar*. Provided also, that if a *zemindar* or *zudder malguzar* when so called upon shall fail to specify or tender any sum as aforesaid, then, and in that case, the net revenue derived by Government from the *mohaul* on account of the year preceding that in which the collector or other officer aforesaid may make the said requisition, shall be taken

Zemindars may be called upon to state the *jumma* for which they may be willing to engage, and their *mulikana* allowance may be adjusted according to the amount tendered by them.

Or by the net revenue of the preceding year, if no tender be made.

as the sum by which the amount of *malikana* (not being less than five, nor more than ten per cent. on the same) shall be adjusted.

VI. *First.* In cases wherein the existing engagements may be continued under the rule contained in Section 2. of this regulation, it shall and may be lawful for the collectors, with the sanction of the Board of Commissioners, to enter, at any time in the course thereof, on a revision of the settlement, notwithstanding such continuance of the existing leases, and to adopt such measures as may be requisite for ascertaining and determining the extent and produce of the lands and the amount of *jumma* properly demandable therefrom, and for procuring and recording the fullest possible information in regard to the rights, interests, privileges, and properties of the agricultural community; and to determine the same with the same powers and authority as they now are, or may hereafter be entitled to exercise, in forming the settlement of estates open to re-assessment.

Revenue officers may revise settlement of estates, of which the existing leases shall be extended under Section 2, during the continuance of such extended lease.

Second. The said revision of the settlement shall be made village by village and *mohaul* by *mohaul*, and such number of *mohauls* shall be revised in each year as the Board, under the orders of the Governor General in Council, may direct.*

Revision of settlement how to be made.

Third. Such revision of the settlement shall not operate to disturb the existing engagements during the period for which they may be continued under the provisions of Section 2. of this regulation, in so far as such engagements relate to the amount of *jumma* demandable by Government: but the said engagements shall be held and considered to include only such villages and lands as may be specified in the proceedings or accounts of the settlement *last* concluded; and if on the revision of the settlement of any *mohaul* it shall be found that there has been any material error or concealment of lands belonging to such *mohaul*, the collector shall be authorised, subject to the orders of the Board, separately to assess the lands so withheld from the knowledge of the revenue authorities, in the same manner and with the same powers as he would assess an unsettled *mohaul*. Provided also, that nothing in this, or the preceding sections, shall be construed to prevent the revenue officers from passing and enforcing such orders in regard to the rights and interests to be enjoyed by the different classes or persons connected with any *mohaul*, during the period for which the existing settlement has been extended, as they may or shall be authorized to pass or enforce, when adjusting the assessment of an unsettled *mohaul*.

Revision of settlement shall not operate to alter the amount of the *jumma* payable on account of lands included in existing engagements.

But lands withheld from the knowledge of the revenue officers at past settlements, may be separately assessed.

Revenue officers revising settlements to exercise the same authority in adjusting the relative rights of individuals, as they may exercise when assessing a *mohaul* upon to re-assessment.

Fourth. It shall in like manner be competent to the collectors in the conquered provinces, and in the province of Bundlecund, to enter on a revision of the settlement under the provisions contained in the preceding clauses of this section, during the continuance of the existing leases.

Collectors in the conquered provinces to revise settlements during the continuance of the existing leases.

VII. *First.* When a collector in the ceded provinces or in the province of Cuttack shall have completed the revision of the settlement of any *mohauls* under the rules contained in the preceding section, it shall and may be lawful for him, subject to the orders of the Board of Commissioners and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed leases for such further term of years subsequent to the year 1234 Fussily or Umlee, as the Governor General in Council may direct.

When revision of settlement completed, prolonged leases to be granted in the ceded provinces and in Cuttack, Putaspore and its dependencies, for years subsequent to 1234.

Second. The assessment to be demanded on account of the years subsequent to the year 1234 Fussily, to which leases renewed as above may extend, shall be fixed with reference to the produce and capabilities of the land, as ascertained at the time when the revision of the settlement shall be made, unless under special circumstances justifying a prospective enhancement of the Government demand. Provided also, that the amount of such assessment shall not be raised above that of the present *jumma*, unless it shall clearly appear, that the net profits to be derived from the land by the *zemindars* and others who may be entitled to share in the profits arising out of the limitation of the Government demand will exceed 1-5th of that amount: and in cases wherein any increase may be demanded, the assessment shall be so regulated as to leave the *zemindars* and others aforesaid a net profit of twenty per cent. on the amount of the *jumma* payable by or through them respectively. No abatement on the existing *jumma* will be allowed, unless on the clearest grounds of necessity.

Jumma for years subsequent to 1234, how to be adjusted.

Third. The *pottahs* granted on such revised settlements shall be held only to secure the *maigusars* from further demand during the term of their respective leases, on account of

Pottahs granted on revised settlement only to cover lands specified.

of the lands specified in it, or described in the settlement *roobakaree* of the collector, with such allowance for error as may be distinctly declared at the time of settlement. *Zemindars* and other persons entering into engagements will be required therefore to afford the fullest and most correct information in regard to the *rucba* of the *mohauls* for which they may engage.

In conquered provinces likewise, renewed leases to be granted pending the present settlement for a term of years subsequent to its expiration.

Fourth. In like manner it shall and may be lawful for collectors in the conquered provinces and in the province of Bundlecund, to grant renewed leases for a further term of years subsequent to the expiration of the existing settlement, subject to the same rules, restrictions, and provisions, as are enacted in the preceding clauses relatively to the ceded provinces.

Cases wherein the final settlement of estates shall after revision, be postponed until the expiration of the current leases.

Fifth. If any *zemindar* or other *sudder malgusar*, the settlement of whose estate may be revised under the above rules, shall refuse to enter into suitable engagements for a further period beyond the term of the then current lease, or if after such revision, the revenue authorities shall under any other circumstances deem it expedient to postpone taking further engagements for the payment of the revenue of any *mohauls* until the expiration of the current leases, it shall be competent to them to do so; and in such case, the several rules contained in Section 3. of this regulation relative to estates of which the settlement will expire with the present year, shall on the expiration of the said leases be and be held applicable to such *mohauls*.

Rules applicable to such cases.

The same rules applicable to estates in Goruckpore, Azimghur, Putsapore, &c. as they may become open to re-settlement.

Sixth. The same rules shall also be applicable to the several *mohauls* within the district of Goruckpore, the *chuklah* Azimghur, the *pergunnah* Putaspore and its dependencies, as they may respectively become, or be declared open for re-settlement.

Waste lands may be disposed of by Government, under what conditions.

VIII. Where the waste land belonging to or adjoining any *mohaul*, is very extensive, so as considerably to exceed the quantity required for pasturage or otherwise usefully appropriated, it shall be competent to the revenue officers to grant leases for the same, to any persons who may be willing to undertake the cultivation, in perpetuity, or for such periods as the Governor General in Council shall determine; and to assign to the *zemindars* or others who may establish a right of property in the lands so granted, an allowance equivalent to ten per cent. on the amount payable to Government by the lessees, in lieu and bar of all claims to or in the waste lands so granted, or such other perquisites or privileges as by the custom of the country they may appear in such cases entitled to receive.

Detailed investigations to be prosecuted by collectors and other officers making or revising settlements.

IX. *First.* It shall be the duty of collectors and other officers exercising the powers of collectors, on the occasion of making or revising settlements of the land revenue, to unite with the adjustment of the assessment and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests, and privileges of the various classes of the agricultural community. For this purpose, their proceedings shall embrace the formation of as accurate a record as possible, of all local usages connected with landed tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil, or vested with any heritable or transferrible interest in the land or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held, more especially where several persons may hold interests in the same subject matter of different kinds or degrees. This record shall in *putteedaree bhyachara* villages or the like, include an accurate register of all the coparceners, not merely the heads of divisions, such as the *puttees*, *thokes*, or *bahees*, but also as far as possible of every person who occupies land, disposes of its produce, or receives rent as proprietor, or as agent for one or more proprietors holding land and disposing of its produce or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood, for the distribution of the profits derived from sources common to the coparcenency where any such exist, and for determining the share of the Government *jumma*, and of the village expenses which each parcener is to contribute, or the other modes in which the engaging parcener or intermediate *putteedars* and *behreedars* collect from the cultivators. A record shall likewise be formed of the rates per *beegha* of each description of land or kind of produce, demandable from the resident cultivators, not claiming any transferrible property in the soil, whether possessing the right of hereditary occupancy or not,

Proceedings to embrace what particulars.

and the respective shares of the *sudder malguzar* or other manager and the cultivator, in lands cultivated under *kunkoot*, *batai*, or similar engagements, with a distinct specification of all cesses or extra collections made by the *malguzar* or village manager or others. The names of all the village *putwarees* and village watchmen shall also be registered, with a statement of the amount and nature of the allowances assigned to them. And all *lakheraj* tenures shall be carefully recorded, with a specification of the nature of the tenure. The information collected on the above points shall be so arranged and recorded, as to admit of an immediate reference hereafter by the courts of judicature; it being understood and declared, that all decisions on the demands of the *zemindars* shall hereafter be regulated by the rates of rent and modes of payment avowed and ascertained at the settlement, and recorded in the collector's proceedings, until distinctly altered by mutual agreement, or after full investigation in a regular suit: and all cesses or collections not avowed and sanctioned, nor taken into account in fixing the Government *jumma*, shall be held illegal and unauthorized, unless now or hereafter specially sanctioned by Government.

How far to be binding on the courts of judicature.

What cesses or collections to be held illegal.

Second. Provided also, that it shall be competent to collectors and other officers as aforesaid (subject to the orders of the Board of Commissioners) to grant *pottahs* to the several *mofussil zemindars* and *ryots*, or other owners or occupants of land, for the land owned or occupied by them, specifying the amount to be paid by them, and all the conditions attaching to their tenure, and a register of all *pottahs* so granted shall form a part of the *roobakaree* of settlement.

Collectors and other officers making settlement may grant *pottahs* to *mofussil zemindars* and *ryots*.

Third. Provided, however, that if from the number of estates, of which the leases may at once expire in any district, or from any other special cause, it shall be found necessary for the security of the Government revenue, to take engagements from any *zemindar*, *malguzar*, or farmer, without completing the detailed inquiries above directed, it shall be competent to the Boards of Revenue, or other authority exercising the powers of such a Board, to cause engagements for the revenue to be taken in the manner heretofore in use, reporting the circumstance to the Governor General in Council: but the term of the engagements so taken shall not exceed five years, and the rules relative to the revision of the settlements of *mohauls*, of which the existing leases have been extended under the provisions of Section 2. of this regulation, shall be equally applicable to estates for which such engagements shall be taken.

In what case engagements for the revenue may be taken as heretofore, without a detailed *mofussil* settlement.

Such engagements not to be granted for a term exceeding five years, nor to bar an intermediate revision.

X. *First.* Of several parties possessing separate heritable and transferrible properties in any parcel of land, or in the produce or rent thereof; such properties consisting of interests of different kinds: it shall be competent to the Governor General in Council to determine and direct which of such parties shall be admitted to engage for the payment of the Government revenue; due provision being made for securing the rights of the remaining parties. It is further hereby declared and enacted, that it is and shall be competent to the Governor General in Council, in confirming the settlement of any *mohaul* in perpetuity or for a term of years, to determine and prescribe the manner and proportion in which the net rent or profit arising out of the limitation of the Government demand, shall be distributed among the different parties possessing an interest in the lands appertaining to such *mohaul*, or in the rent or produce of such lands or *mohaul*.

In cases where several persons holding interests of different kinds may have separate properties in the same land, Government may determine which of such parties shall be admitted to engage for the public revenue.

Provision to be made for the remaining parties.

Government will also determine the manner and proportion in which the net rent or profit arising out of the limitation of the public demand, shall be distributed among the different parties possessing properties in lands settled in perpetuity or for a term of years.

Second. In cases wherein any land appertaining to a *mohaul* hitherto recognised as the *talooka*, *zemindaree*, or the like of one or more *sudder malguzars*, may be owned or occupied by other persons holding under the *sudder malguzar*, and possessing an heritable and transferrible property therein, or a hereditary right of occupancy subject to the payment of a fixed rent, or of a rent determinable by a fixed principle, if the title of the said *sudder malguzar* to engage for the revenue be upheld, and generally in cases wherein the tenure of an intermediate *malguzar* or manager between the Government and the proprietors or hereditary occupants of the soil may be maintained, whether the Government revenue be collected from the *zemindar*, *talookdar*, or other hereditary intermediate *malguzar*, or the *mohaul* be farmed or held *khas*, it shall be competent to the collector or other officer who may be employed in adjusting the *jumma* to be assessed on such *mohaul*, with the sanction of the Board previously obtained, and subject to the orders and direction of that authority, to make a *mofussil* settlement with each of the proprietors or occupants aforesaid, for the land possessed by him, and to grant such proprietors or occupants *pottahs* defining

Mofussil settlements to be made in cases wherein the title of an intermediate manager between Government and the proprietors or hereditary occupants of the soil may be maintained.

the condition on which they are to hold their land, whether subordinate to the *sudder malguzar* or to the farmer or officer of Government employed in the *khas* management; and in all such cases, if engagements for the Government revenue of the *mohaul* be taken from the intermediate hereditary *malguzar*, the particulars of the *mofussil* settlement, when approved by the Board, shall be endorsed on the *potah* to be granted to the *sudder malguzar*, or shall be so incorporated with the engagement taken from him as to form part of the same.

Where several persons may hold a common property or properties subject to a common obligation.

Third. In cases in which two or more persons may possess a joint property in any village, *mohaul*, or parcel of land, or in the rent or produce of any village, *mohaul*, or land, or in any part of such village, *mohaul*, land, rent, or produce, the property of such persons consisting of interests of the same kind, whether of the same extent or otherwise, as well as in cases wherein such property in any *mohaul*, village, land, produce, or rent, may be separately possessed by parties subject by prescriptive usage to common obligations, whether existing or contingent, it shall be competent to the collector or other officer exercising the powers of collector, subject to the orders and direction of the Board and of the Governor General in Council, either to make a joint settlement with the parties collectively, or a majority of them, or with an agent appointed by them, or a majority of them, or to select one or more of them to undertake the management of the *mohaul* as *sudder malguzars*, due advertence being had to the wishes of all the coparceners, and to the past custom of the village or villages comprised in the *mohaul*.

The revenue officers may make a joint settlement with or in behalf of the parties collectively, or of a majority of them.

Or may select one or more to manage the *mohaul* as *sudder malguzars*.

When a joint settlement is to be made, parties how to be summoned.

Fourth. When it shall be determined to make a joint settlement for any village, *mohaul*, or parcel of land, with the parties possessing therein a joint property as aforesaid, the collector or other officer making the settlement shall give notice of his intention by a written proclamation to be stuck up in some public place within the village, *mohaul*, or land, and shall require all persons possessing therein a property as aforesaid, to attend, either in person or by representative duly authorised in the matter, within a reasonable period, at a stated place and time, and to declare their agreement or non-agreement to the *jumma* proposed to be assessed on the village or land.

Persons wilfully failing to attend when summoned, to be bound by decision of the majority who may attend, and to be responsible for the revenue agreed to.

Unless otherwise specially provided.

Fifth. If any person or persons, when summoned as above, shall refuse, neglect, or omit to attend, either in person or by representative, such person or persons shall be held to be bound by the decision of the majority of those who may attend in agreeing or dissagreeing to the *jumma*, and his or their interests and estate shall, unless otherwise specially allowed, be held responsible for the Government revenue, and be liable to sale in the event of any arrear accruing on account of the settlement.

In cases in which any of the parceners object to the *jumma* assessed, the engaging parceners shall be deemed to be farmers of the revenue of the lands belonging to the recusants, if their engagements extend to such lands.

Sixth. If any person or persons shall attend, and shall object to the *jumma* proposed to be assessed, then should a settlement be made with the other parties present, the objecting parties shall be left in the enjoyment of the same rights and interests, as they would enjoy in the event of the *mohaul* being farmed or held *khas*: and in so far as regards the lands, to which such rights and interests attach, the other parceners, if their engagements be extended thereto, shall be considered farmers of the Government revenue, to hold the same under leases of such term as may be determined and agreed upon under the general rules applicable to lands for which the proprietors may refuse to engage.

Proprietors cultivating lands of which the revenue may be collected *khas* or farmed, at what rates to pay rent.

Seventh. When any *mohaul* or portion of a *mohaul* held by a number of cultivating proprietors in *putteedaree* or *bhyachara* tenure or the like, shall be let in farm or held *khas*, the rent demandable from the proprietors of such *mohaul* or portion of *mohaul* on account of the land occupied and cultivated by themselves, shall be adjusted by the rates payable by *ryots* or other resident cultivators not having a heritable and transferable property in the soil, for lands of a similar description in the same or in the adjoining villages, with a deduction of five per cent. on account of *malikana*, or such other rate, not being less than five per cent. as Government may determine.

When the settlement of a *mohaul* held in common tenancy or subject to common obligation, shall be made with one or more of the parceners selected as manager or *sudder malguzar*, on what

Eighth. When it shall be determined to make a settlement of a *mohaul* of the above description with one or more of the parceners selected to manage, collect, and account for the public revenue as *sudder malguzar*, then and in that case, the interests of the non-engaging parceners shall not be held answerable for the default of the *sudder malguzars*, save and except in so far as may be specifically provided. Such parceners shall, until regularly separated, continue to hold their lands as subordinate proprietors, subject to

the payment of rent or revenue to the *sudder malguzar*, at the rates and in the mode heretofore in use, excepting in so far as that usage may be affected by the determination of Government in regard to the distribution of the net rent or profit derived from the limitation of the Government demand, or by the rules now in force, or hereafter to be enacted, for vesting the *sudder malgurars* with specific powers over the subordinate tenants in the collection of the rent or revenue demandable from them. The responsibility attaching to the persons selected as *sudder malgusars*, and the conditions under which they are to hold that title of management, will in each case, be specifically declared at or after the time when the settlement is confirmed. The conditions and limitations under which the subordinate proprietors shall be admitted to separate engagements, will also be similarly declared.

terms the other parceners are to hold.

Nature and conditions of the *sudder malgusars'* tenures to be declared.

Ninth. Provided further, that in all cases wherein different parcels of land belonging to any *mohaul* may be separately owned and occupied by different proprietors, or by different bodies of proprietors, it shall be competent to the Boards of Revenue, or other authority exercising the powers of that Board, to cause a separate settlement to be made for the land owned and occupied by each proprietor, or by each body of proprietors, and each parcel of land for which a separate settlement may be so made, shall be held exclusively responsible for the revenue assessed upon it. Provided also, that if the several parties possessing a joint property or separate properties subject to a common obligation as aforesaid, or any of them, shall apply to a collector or other officer making or revising a settlement, to have separate possession of their several share or shares in such joint property, or to be admitted to separate engagements, it shall be competent to such collector or other officer, with the sanction of the Board, or other authority to which he may be subordinate, to make a partition of the property among the different parties according to their respective interests, and to make a separate settlement with each of them, or with such as may desire to enter into separate engagements.

Lands separately owned and occupied, though hitherto held as one *mehaul*, may be separately settled.

Joint properties, or properties subject to a joint obligation, in what cases to be divided.

Tenth. In all cases wherein any proprietors may be excluded from engagements, the collector shall be careful to let it be known, that all persons possessing a property in the *mohaul* are entitled to have their names recorded in the *roobakaree of* settlement, with the amount or rate of the assessment demandable from each.

Proprietors though excluded from engagements may have their names registered.

XI. *First.* The collector's proceedings in forming the registry above directed, shall be founded on the basis of actual possession, and that officer shall in every instance, be careful to record the precise nature of the authority on which the entries in his books may be made. In conformity with the above principle, it shall be competent to the collectors or other officers when making or revising settlements, or otherwise deputed to investigate and determine the circumstances of any *mohaul*, and the nature of the tenures connected with it, to correct the errors or omissions of former settlements by admitting to engagements, or entering on the public records the names of persons found in the *bonâ fide* possession of land, or in the receipt of rent under a proprietary title, and in such cases, the collector will hold an official proceeding, explaining fully the grounds on which he may act.

Collectors forming such registry to proceed on the basis of actual possession.

XII. *First.* In cases in which the proportion of the Government *jumma* and village expenses payable by each proprietor and by each body of proprietors comprised in the several *puttees, behrees*, and other divisions of an estate held under *putteedaree* or *bhyachara* tenure or the like, may have been originally fixed on a measurement of the lands occupied by each, with reference to the quantity in cultivation, and may be liable by the usage of the country to periodical adjustment on the same principle, if the collector or other officers making or revising the settlement shall be satisfied, by examination of the *putwarees'* accounts or otherwise, that the contributions paid by any proprietor or body of proprietors as aforesaid, are materially in excess of the amount justly demandable from them, it shall be competent to him, with the previous sanction of the Board, to cause a new distribution to be made of the revenue and charges payable by each, with reference to the above principle, and to such resolutions as Government may have passed relative to the apportionment of the net rent or profits arising out of the limitation of the Government demand, and in the performance of this duty to employ the *canoongoe*, and such person or persons as he may judge it advisable to appoint, and to settle the *jumma* payable by the different parties according to the award of such person or persons, or otherwise, as shall appear to be just and equitable.

In estates held under *putteedaree, bhyachara*, or the like tenure, collectors may, in certain cases, make a fresh allotment of the revenue and charges payable by the several parceners.

And in certain cases may make a fresh partition of the land.

Second. In like manner in cases in which the several proprietors shall be entitled, not only to an adjustment from time to time of the *jumma* payable on account of the lands occupied by them, but likewise to a periodical partition of the lands of the village with reference to the share recorded as belonging to each, it shall be competent to the collector to cause a fresh partition of the lands and adjustment of the *jumma* to be made as above proscribed, and at the same time to fix and declare the period from which the arrangement finally settled is to have effect, and to adjust the claims of the parties relative to the revenue intermediately paid by them as may appear equitable. Provided however, that no such partition or adjustment shall be final, until confirmed by the Board of Commissioners, or other authority exercising the powers of that Board: provided also, that if any parties shall dispute the existence of the usage under which the partition of the lands shall have been made, and shall claim to be restored to possession of the lands which the collector may have transferred to another, or shall consider himself entitled to the benefit of a new partition of the lands comprised in the *mohaul* to which he may belong in any case in which the collector may have refused to order it, it shall be competent to the said party to bring a regular suit in the *zillah* court against the person or persons to whom the lands may have been transferred, or the person or persons who may resist the partition, to try the justness of the collector's decision; but if the existence of the usage shall be admitted or established, it shall not be competent to the courts of judicature to question the accuracy of the partition of the land or adjustment of the *jumma*, and whenever the decision of a collector for the partition of any land shall be set aside, it will of course belong to the revenue authorities to readjust the *jumma* with reference to the interests of the parties as defined and settled by the final decision of the courts of judicature, and to the conditions of the tenure, and to any general or special resolution of Government relative to the distribution of the net rent or profit arising out of the limitation of the public assessment.

Cases wherein parties affected by collector's decision may contest it in the *adawlut*.

On what points decision of revenue officers to be conclusive.

Collectors shall not disturb possession, unless specially authorized.

XIII. Collectors and other officers exercising the powers of collectors shall not, unless where specially authorized in the manner prescribed in this or some other regulation, do any act tending to disturb possession, but shall leave the *adawlut* to investigate in a regular suit all claims of persons not in possession, but deeming themselves entitled to be so.

Collectors making or revising settlements may declare the nature and extent of interests possessed by persons occupying land.

Where lands held in *putteedaree*, *bhyachara*, or the like tenure, collectors may decide disputes as to the extent of interest belonging to any parcener, and may enforce his decision.

Subject to an appeal to the *adawlut*.

XIV. *First.* Collectors making or revising settlements shall, in cases in which any dispute may exist in regard to the nature of the tenure of any person occupying the soil, be competent to declare, in an official proceeding to be incorporated in the *roobakaree* of settlement, the nature and extent of the interests actually possessed by such occupant, referring to the denomination heretofore applied to him only as one means of proof in regard to the nature of the interests, but stating at length, with specification of any examination he may take for his satisfaction, the grounds of his determination; so also in cases of dispute regarding the extent of the interest belonging to any sharer in a village or villages held under *putteedaree*, *bhyachara*, or the like tenure, such sharer having actual possession of a portion of such village or villages, or being in the actual receipt as proprietor of a share of the joint profits of the land, it shall be competent to the collector to decide the point in the first instance in his *roobakaree* of settlement, and to enforce his decision, leaving the party who may deem himself aggrieved to seek redress by a regular suit in the courts to try the right; but nothing herein contained shall be construed to authorise the courts to interfere with the decision of the collector in regard to the amount or proportion of *jumma* to be assessed on any parcel of land, or in respect to the quantity and description of land, to be assigned in partition to the holder of any specific share of a joint estate.

Collectors shall not under the above rule take cognizance of claims to larger profits or more land than claimant may have hitherto enjoyed or held.

Second. The above rule shall not be construed to empower collectors, unless otherwise authorized, to take cognizance of any claim to receive a larger portion of the common profit than the claimant has hitherto enjoyed, or to hold a larger portion of the village or villages than he has hitherto occupied.

Decision of revenue officers to be maintained by courts, unless proved to be wrong in a regular suit.

Third. The decisions passed by the collectors under the above powers, if not altered or annulled by the Board or by Government, shall be maintained by the courts, unless on investigation in a regular suit it shall appear, that the possession held under such a decision is wrongful; and nothing herein contained shall be understood to authorize any court to interfere with the decision of the revenue authorities relative to the *jumma* to be assessed on any *mohaul* or portion of a *mohaul*, or to the extent and description of lands belonging to

Courts not to interfere with apportionment of

any *mohaul*, that may be assigned on the partition of the same to the several parceners concerned.

jumma or allotment of land made by collectors, excepting where the principle of collector's decision may be at variance with decree.

Fourth. If any person shall complain to a collector or other officer making or revising the settlement of any *mohaul*, that he has been wrongfully dispossessed from any lands, premises, crops, orchards, pasture grounds, fisheries, wells, water courses, tanks, reservoirs, or the like, within such *mohaul*, or of the rents, produce, or profits of such lands, premises, &c. the like as aforesaid, or that he has been wrongfully disturbed in the possession thereof, it shall be competent to the collector or other officer aforesaid, to inquire into the matter, and if the party so complaining shall appear to have been in possession in the year preceding that in which the complaint is brought, and there shall otherwise be reason to believe, that he has been violently or wrongfully dispossessed or disturbed, it shall be competent to the collector to restore or confirm him, recording the grounds of his determination in a *roobukaree*, and the opposite party shall in such case be left to bring a regular suit in court to try the question of right. In like manner should a collector or other officer as aforesaid, find that there exist in any *mohaul* of which he may be making or revising the settlement, any disputes relative to the possession of lands, premises, or the like, which it may be expedient to adjust, it shall be competent to the collector or other officer aforesaid to pass a decision determining the point of possession, leaving the question of right, if further disputed, to be settled by the result of a regular suit in the *adawlut*.

In what cases collectors to take cognizance of complaints of wrongful dispossession.

Subject to an appeal to the *adawlut*.

Fifth. The above provisions shall be held to apply to all cases in which a *zemindar* or under-tenant, whether farmer or *ryot*, having by special deed or prescriptive title a right of occupancy, shall have been wrongfully ousted from the occupancy of lands held and cultivated by him in the preceding year, or in which the rents or profits of any land which were received by such dispossessed party in the preceding year, shall be withheld from him, without a legal award or a voluntary act of the party involving the transfer, renunciation, or relinquishment of such rents and profits. But the above rule shall not apply to any case in which the complaining party may have executed any deed, purporting to be a relinquishment of possession, unless it shall have been established by some judicial proceeding, that such deed was extorted by force and terror, nor to any cases wherein the complainant shall have in any way lost or relinquished possession previously to the commencement of the year preceding that in which the complaint may be preferred.

The above provisions to what cases to apply.

To what cases the rule shall not apply.

XV. In the settlement of any resumed *mohaul* held, or pretended to be held under *zemindar* from the ruling power, or from the *amils* or other officers of the Government, whether such lands shall have been heretofore subject to the payment of revenue or otherwise, it shall be competent to the collector or other officer making the settlement to hear, try, and determine all claims to the property and possession of the land comprising such *mohaul*, or the rents or produce thereof, any thing in the existing regulations notwithstanding, and subject to the orders and direction of the Board of Revenue, or other authority exercising the powers of that Board, to give possession to, and conclude a settlement with the party who may appear to have the best title, leaving other claimants to establish their claims by a regular suit in the *zillah* or provincial court, by which, according to the value of the interest at stake, all decisions passed by the revenue authorities under this section may on such suit being fully heard, sued, and determined, and not otherwise, be revised, annulled, or altered. The above rule shall not extend to lands held free of assessment under grants made by, or at the request of the proprietors themselves, or their representatives, the settlement of which shall ordinarily be made with the parties in possession, if willing to engage on adequate terms.

In settling resumed *lakheraj* lands, collectors may take cognizance of claims to the property therein.

And may give possession to parties appearing to have the best title.

Subject to an appeal to the *adawlut* by a regular suit.

The above rule not to extend to lands held under grants made by, or at the request of proprietors.

XVI. It shall be competent to the Governor General in Council to grant to a collector making or revising the settlement of any *mohaul*, whether the same may have been held by a *lakheraj* tenure resumed, or being *mafiguzaree*, may have become open to resettlement in ordinary course, special authority to hear, try, and determine as above, all claims to the property and possession of the lands lying within such *mohaul*, or the rent or produce thereof, and to give possession to the party who may appear to have the best title, subject to the orders and direction of the Board, and further subject, as above, to the revision of the *sudder* or provincial court on a regular suit: provided also that whenever special authority may be given to any collector as aforesaid, notice of the order of Government shall be published by a proclamation within the *mohauls*, to which the authority so given may extend;

Governor General in Council may grant to collectors making or revising settlements, special authority to take cognizance of claims to the property and possession of land.

and it shall be the duty of the collectors and the Boards to see that such proclamation is duly made. But no decision passed by a collector under this or any other section whereby such notification is required, shall be disturbed by any court of judicature, otherwise than after a full and regular investigation of merits on the plea that proclamation was not made.

Collectors making or revising settlements, in what cases to take cognisance of claims to property in lands held *lakheraj* or at a *mocurreree jumma*, under valid tenures, and to make a settlement with the proprietors on behalf of the *lakherajdar* or *mocurrereedar*.

XVII. It shall be competent to collectors and other officers engaged in making or revising the settlement of any *pergunnah*, *mouzah*, or other local division, on the application of persons claiming a right of property in lands held free of assessment, or at a *mocurreree jumma*, under unquestioned grants from the ruling power, or from the *amil*, or other officers of Government, and situated within, or adjoining to such *pergunnah*, *mouzah*, or other local division, to receive, try, and determine the claim; and if satisfied that the applicants do possess, or are entitled to possess a hereditary and transferrible property in the land or the produce or rent thereof, the collector or other officer, with the sanction of Government previously obtained, shall be authorised to conclude a settlement with them on behalf of the *lakherajdar* or *mocurrereedar*, for such period as the Governor General in Council may direct, and shall grant to each of the said proprietors *pottahs*, defining the conditions on which they are to hold their lands, subordinate to the *lakherajdar* or *mocurrereedar*. It shall further be competent to the collector, under the orders of the Board of Commissioners, to fix and declare the amount of *malikanah* or other proprietary allowance to be paid by such *lakherajdars* or *mocurrereedars* to the said proprietors, in the event of their being divested of the occupancy and management of their lands: provided however, that either party who may be dissatisfied with the decision of the collector as to the question of the right of property, shall be at liberty to contest the same in a regular suit in the *adawlut*; but the courts shall not interfere to alter the terms on which the settlement may have been made by the collector with proprietors, or the amount of *malikanah* granted to such persons.

Proviso, that an appeal to the *adawlut* shall lie on the question of right of property.

Collectors to be the judges as to the question of jurisdiction.

XVIII. The collector shall in cases of doubt be the judge of the question of jurisdiction, subject to the orders of the Board and of Government, and the courts of judicature shall not disturb possession given by the collector, except on a regular suit, and on a decision as to the right.

Collectors authorised to summon witnesses and require production of accounts.

XIX. *First.* It shall be competent to collectors, when prosecuting the above inquiries or hearing and trying the above suits or otherwise, when authorised in that behalf by the Board to which they may be subordinate, to require all *sudder mulguzars* and other persons owning, occupying, managing, or cultivating any lands within or in the vicinity of the *mohaul* to which their inquiries may extend, or gathering or disposing of the produce thereof, or collecting, enjoying, or appropriating any rent or revenue derived therefrom, as well as the *gomashtahs* or other agents employed by such persons in the management or cultivation of the land, or in the collection of the rent, produce, or revenue thereof, to attend and produce all accounts or other papers which they may respectively possess relative to such lands, produce, rent, or revenue, and to examine the said persons on oath, or *hulufnamah*, to the truth of the accounts produced, or on any other matter relating to such accounts, or regarding the lands, produce, rent, or revenue of the *mohaul*, or the rights and interests attaching to such lands, produce, rent, or revenue: provided however that no person shall be compelled to answer on oath or solemn declaration, any interrogation regarding matters wherein he may have an immediate personal interest in concealing the truth, or in uttering what is false, not being an interest arising out of fear, favour, or reward, or any corrupt bargain or agreement with another party.

To examine on oath, or *hulufnamah*.

Proviso, that persons shall not be examined on oath on questions immediately touching their own interests.

Rules of Regulation II. 1819, applicable to processes issued by collectors under this regulation.

Also to *putwarees* and others summoned or examined in cases cognizable under this regulation.

Second. The rules contained in Section 11, Regulation II. 1819, relative to the mode of serving process on persons who may be required to attend and produce accounts under the provisions of that regulation, shall be and be held applicable to processes issued by collectors or other officers under the rules contained in this regulation. In like manner the provisions of Sections 12. of the said regulation shall be applicable to all *putwarees*, *gomashtahs*, or other persons, by whom the accounts of any lands regarding which the said inquiries may have been instituted may be kept, and who, after being duly summoned as aforesaid, may neglect or omit to produce any of the accounts required from them, or to give their evidence regarding them, or who may deliberately give a false deposition on oath or solemn declaration when summoned and examined as aforesaid, or who may alter, fabricate, falsify or mutilate the accounts which they may be required to produce: provided further that collec-

tors and other officers employed in the settlement of the land revenue, or in any of the inquiries specified in this regulation, shall be vested with all the powers and authority which are or may be lawfully exercised by collectors in cases depending before them under Regulation II. 1819, and the rules contained in clause third, Sections 13, 14, and 19. of the said regulation, shall be and be held applicable to all persons who may be summoned by any collector or other officer aforesaid, or who may resist the process of a collector issued under the rules of this regulation, or who may refuse to take an oath or subscribe a solemn declaration when required, or who may deliberately give a false deposition on oath, or under a solemn declaration taken instead of an oath, or may cause or procure another to do so.

And to all other persons upon whom process may be issued.

XX. *First.* The powers specified in Sections 11, 12, 14, 16, 17, 18, and 19. of this regulation, shall be ordinarily exercised by collectors when employed in making or revising settlements of the land revenue, and shall extend to all the lands comprised in the *pergunnah* in which he may be so employed; but it shall be competent to the Government by an order in Council, to be publicly proclaimed in the district, to restrict the authority of collectors and other officers making settlements in such manner, and to such extent, as he may, from time to time, judge expedient. In like manner it shall be competent to Government to vest such collectors as may, from time to time, be judged fit, with a special authority to receive, try, and determine in the first instance, subject to a regular suit in the *adawlut* as above provided, all or any of the questions of the nature specified in the aforesaid sections, though the said collectors may not be engaged in making or revising a settlement of the land revenue; and to vest in such of the collectors as may be thought proper, authority (either generally or within such limits as may be, from time to time, determined) to receive, try, and determine by summary process, all suits for rent which may be preferred by *zemindars*, *talookdars*, or other *sudder malguzars* or farmers of land, or by any person in their behalf, against any dependant *talookdar*, *zemindar*, under-renter, *ryot*, or other under-tenant of whatever denomination, as well as all applications by *ryots* and the under-tenants contesting the demand of a *sudder malguzar* or farmer, and all complaints preferred by *ryots* or other under-tenants of whatever description, against landholders or farmers of land, or their respective agents or representatives, on account of excessive demand or undue exaction of rent, whether levied by distraint or otherwise, as well as all suits relative to the adjustment of accounts between landholders and farmers of land or under-tenants of whatever description, with their sureties, or with any agents or persons employed by them in the management of land, or the collection or payment of the rent of land, and to all other matters immediately connected with the demand, receipt, or payment of the rent of land, whether *malguzaree* or *lakheraj*, or with the rent of orchards, pasture grounds, and fisheries, commonly denominated *phulkur*, *bunkur*, and *julkur*, or with any other asset of the land revenue, not included in the *ameer* abolished, together with all complaints of the non delivery of *pottahs* when demandable under the regulations, or complaints of the prescribed receipts not being given for actual payment of the rent, and generally complaints of any deviation from the regulations, or from the established usage of the country relative to the matters aforesaid, or any violation of subsisting engagements in disputes respecting the rent and occupancy of land, between landholders or farmers of land, and their under-tenants of whatever denomination.

Powers specified in Sections 11, 12, 14, 16, 17, 18, and 19, to be ordinarily vested in collectors making or revising settlements.

But Governor General in Council may restrict powers to be exercised on any particular occasion.

Like powers may be specially vested in collectors, though not engaged in making or revising settlements.

Collectors may be similarly vested with special powers to try all suits regarding rent,

Or exaction of rent,

The adjustment of accounts between landlord and tenant, their sureties and agents, and touching all matters connected with land, the rents or produce of land, the delivery of *pottahs*, the violation of engagements, and generally all disputes between *sudder malguzars*, and farmers and their tenants.

Second. The appointment of the collector to the discharge of the above duties, and the extent of the jurisdiction to be assigned to him, shall be notified by proclamation in the district, after such manner as the Governor General in Council may direct; and after the publication of such notice, all summary suits, actions, applications, and complaints of the above nature, and referring to lands or the rents, produce, or accessions of land lying within the jurisdiction assigned to the collector as above, which may be preferred in the *zillah* or city *adawlut* by any *sudder malguzar*, *zemindar*, *talookdar*, farmer, *ryot*, or other proprietor or under-tenant of land, shall, immediately on being received, be referred for trial to the collector, to whom also all such summary suits depending at the time shall be transferred: provided also that in such cases, parties having suits or complaints to prefer of which the cognizance may be vested as above in the collector, shall be at liberty to prefer them to that officer in the first instance. It shall in like manner be competent to the Governor General to fix by an order in Council, the period at which the special powers given as above to the collector, and the authority to be ordinarily exercised by those officers on the occasion of making settlements, shall cease and determine.

Appointment of collector to exercise the above duties how to be notified.

Governor General may fix by proclamation period for which collectors are to exercise judicial powers under this regulation.

Collectors shall not take cognizance of complaints specified in preceding clauses, unless preferred within one year.

Third. No complaint or application of the nature specified in the preceding clauses, shall be received by a collector under the rules of this regulation, unless the plaint or application shall have been preferred within the period of one year after the cause of action shall have arisen.

Collectors by what rules of practice to be guided, and what processes to issue.

XXI. In summary suits for rents and the like, wherein special rules have been prescribed for regulating the process of the courts, the collectors shall be guided by the same rules, and shall exercise the same powers and authority as are or may be lawfully exercised by the *zillah* and city judges. In other cases falling under their cognizance, according to the provisions of this regulation, the ordinary process for securing the attendance of the defendant or party otherwise impleaded, shall be to issue a notice reciting the matter, and requiring the defendant or other party to attend in person or by representative, at such time and place as may be made choice of by the collector for conducting the investigation: should any party fail to attend after being served with a notice of the above description, or should the return of the *nazir* or person employed to serve the notice be, that after diligent search the party or parties cannot be found, proclamation shall be made in writing to be stuck up at or near the ordinary residence of the party, stating that after fifteen days from the date of publishing the same, the case will be liable to be brought up for trial and judgment, and any party implicated who, having been served with the notice above described, shall fail to attend, or who shall continue to absent himself, will be as much bound by the judgment that may be passed, as if he or they had been in attendance to plead.

Sections 18. and 19, Regulation VIII. 1819, extended, and declared applicable to cases tried by collectors under this regulation.

XXII. Sections 18. and 19, Regulation VIII. 1819, are hereby extended to all the provinces immediately subject to the presidency of Fort William, and the provisions of the said sections shall be applicable to the proceedings of collectors held under this regulation: provided however, that whenever it shall be desired to apprehend a defaulter residing out of the jurisdiction of the collector by whom the suit relative to the alleged arrear may be cognizable, the process of arrest shall be served through the judge of the district where the alleged defaulter may reside.

Collectors's *cutcherree* shall be held a court of civil judicature: and his decisions shall be deemed to be judicial awards.

XXIII. *First.* It is hereby declared and enacted, that in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts, and all other similar matters, connected with cases under cognizance before the collectors of land revenue, or other officer, by virtue of the powers vested in them by this regulation, or any other regulation, whereby collectors are vested with judicial powers, their *cutcherree* or office for the time being shall be deemed and held to be a court of civil judicature.

Second. Provided also, that the regular suits which may be brought to contest decisions passed by collectors, under the powers vested in them by Sections 11, 12, 14. 15, 16, 17, 18, 19, and 20, shall be of the nature of an appeal to court in its regular jurisdiction from a summary award. It shall not therefore be necessary for the collector or other officer of Government to be a party in the action.

Collectors authorized to execute awards made by them.

Third. Collectors of the land revenue are hereby empowered to execute all awards made by them under the rules of this regulation, in cases wherein a specific sum of money shall be adjusted to be due, or any costs or damages be awarded: the collector decreeing the same shall proceed to levy the amount for the party in whose favour it may be adjudged by the process in use for the recovery of arrears of the Government revenue: provided however, that he shall not sell any lands, houses, or other real property in satisfaction of any judgment passed in favour of any individual, on a summary inquiry. In cases wherein possession of lands, houses, watercourses, or the like may be adjudged, it may and shall be lawful for the collector making award, to deliver over possession in the same manner and with the same powers in regard to all contempts, resistance, and the like, as are or may be lawfully exercised by the courts in giving possession to an auction purchaser: and the *zillah* or city *adawluts* shall support the collectors in the exercise of the above power, and shall give effect to any orders passed by them in pursuance of it, in the like manner as if the same had been passed by themselves. Collectors are further hereby empowered to place one or more *peons*, *mirdahs*, *suwars*, or the like, to aid in the maintenance of possession for the party to whom it may be awarded, in case of his deeming such a measure necessary or expedient.

XXIV. *First.* It shall and may be lawful for a collector or other officer exercising the powers of collector, preparatory to making or revising a settlement as aforesaid, to depute any *tehsildar*, *canoongoe*, *ameen*, or other fixed or temporary officer, to any village or *mohaul*, whether the same be managed by a *zemindar* or farmer, or be held *khas*, to inquire into the various matters which such collector or other officer is required or empowered to investigate, in order to form a settlement in the mode prescribed by this regulation. Any such native officer so deputed as above, shall be deemed to be vested with the power of summoning and examining *putwarees*, *gomashtahs*, or other persons by whom the accounts of the village or *mohaul* may be kept, in the same manner and with the same powers as is provided for officers deputed under Section 25, Regulation XII. 1817. Furthermore, in case the collector or other officer may so prescribe, the said *tehsildar*, or other person shall be empowered to make a measurement of the village or *mohaul*, into which they may be deputed, and to summon any *mocuddums*, *pudhans*, *ryots*, or other residents, and to call upon them to point out the boundaries of such village or *mohaul*, and to furnish information as to all matters relating to the land and the rights and interest attaching thereto: and any person contumaciously withholding information from an officer deputed as aforesaid, shall be liable, on the same being established to the collector's satisfaction, to the same penalty as is prescribed for *putwarees* refusing to attend or give evidence.

Collectors authorized to depute native officers to make inquiries preparatory to settlement.

Second. Provided also, that any person who may, by force or threats, obstruct or resist the execution of any legal process, requisition, or order of a collector or other revenue officer shall, in addition to the penalties prescribed by the existing regulations for such act, be liable to a fine not exceeding two hundred rupees, or to imprisonment in the *dewanny* jail for a period not exceeding two months; the said fine or other penalty to be adjudged by the collector after proceeding duly held and recorded, and the sentence to be immediately reported to the Board to which he may be subject.

Resistance or obstruction of the process or order of a collector, how punishable.

Third. Provided further, that all police officers shall aid and support the execution of all process and orders issued by a collector or other officer aforesaid, on the responsibility of the officer issuing or executing the same; and if any affray or breach of the peace shall occur in consequence of any resistance or obstruction being made or attempted to be made to the legal process or order of a collector or other revenue officer, the parties resisting or obstructing such process or order, shall be punishable for the affray or breach of the peace, and the revenue officers shall not be liable to any criminal prosecution on that account.

Police officers to aid and support the execution of process and orders of collector.

XXV. It shall be competent to the parties in all suits the cognisance of which is hereby vested in the collectors of revenue, to employ any agent, *vakeel*, or representative, whom they may think proper to appoint, to act and plead in their behalves, provided such agent, *vakeel*, or representative, be duly empowered by the parties. The rate of remuneration to such agent or *vakeel* shall be left to be adjusted between himself and his constituent, but no greater sum shall be awarded on this account for costs payable by the party against whom the judgment may be passed, than what may be deemed by the collector a fair equivalent for the attendance of such agent.

Parties in suits tried by collectors, may employ any *vakeels* or agents they think proper.

XXVI. No other pleadings shall be required from the parties in such suits, than a plaint and answer, provided that if the parties should, at any time, wish to file an amended plaint, or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.

What pleadings to be required.

XXVII. The *mooktarnamahs* or *vakalutnamahs*, and the pleadings and final decree in such suits, shall be written on stampt paper of the value of eight annas, whatever may be the amount of the suit, and no fees shall be taken on exhibits tendered in the cause, or for the witnesses required by the parties; nor shall it be necessary for the parties to present a written motion on stampt paper for the filing of such exhibits, or for the summoning of such witnesses.

Stampt paper to be used.

XXVIII. It shall be competent to the collectors to hear and determine such suits in whatever part of the district they may occasionally be or reside, provided that every hearing and decision be in public *cutcherree*, or in some other place open to the public, and in the presence of the parties or of their constituted agents or *vakeels*, if in attendance.

Collectors may try and determine suits in any part of their districts.

XXIX. *First.* The decisions of the collectors on all such suits shall be appealable to the Board of Revenue or other authority exercising the powers of that Board. The petition

Decisions how appealable to Boards.

tion of appeal shall be presented either to the collector or to the Board, at the option of the party, and shall be written on stampt paper of the value of two rupees, but no petition of appeal shall be received after the expiration of three months from the date of the decision,

Board how to proceed on such appeals.

unless sufficient cause shall be shewn for the delay to the satisfaction of the Board. Provided also that the Board shall not be required in ordinary cases to go into a regular investigation of the merits, but shall be authorised to dismiss the appeal without further investigation, in all cases in which, on a consideration of the final *roobakaree* of the collector, they may not see ground to consider the decision of that officer to be unjust, erroneous, or

In what cases Board may direct a new trial, or interpose to correct neglect or delay.

doubtful, or his proceedings in the case irregular or imperfect: provided also that in all cases in which the collector may dismiss the suit for non-attendance, or on some other ground of default, without an investigation of the merits of the case, it shall be competent to the Board to direct a new trial, and in cases in which he may neglect or delay the investigation or decision of a suit without sufficient cause, it shall be competent to the Board to interfere, and to cause the collector to proceed upon the inquiry into, and determination of it.

What pleadings to be required in appeals to Boards.

Second. No pleadings except the petition of appeal shall be required in such appeals, nor shall any fees be taken by the Board on the exhibits originally filed, or on any further documents which the Board may think it necessary to call for.

Third. If the parties choose to employ in the pleading of such appeals the same agents or *vakeels* who were previously employed by them in the original suit, no further *mooktarnamah* or *vakalutnamah* shall be required of them.

Respondents to receive notice, but not to be required to appear.

Fourth. The respondent shall receive notice of the appeal, but shall not be compelled to appear in person or by *vakeel*, and the appeal shall be decided on the merits of the case, notwithstanding his absence, in the same manner as if he had attended.

Board's decision to be final as to the result of summary inquiry.

Fifth. The decision of the Board shall be final in as far as concerns the result of the summary inquiry of the collector, and shall be rendered in a Persian *roobakaree* written on stampt paper of the value of two rupees.

But decision of Board and collector may be contested by regular suit in *adawlut*.

Sixth. Any person however, dissatisfied with the summary judgment of the collector or the Board, and desirous of a more full and formal decision, shall be at liberty to prefer a regular suit to try the merits of the case in the *zillah* or other similar or superior court in which it may be cognizable. In such cases the summary judgment of the collector, if not reversed or staid by the Board, shall be carried into effect, notwithstanding the institution of the regular suit.

Parties having claims cognizable by collectors, and not wishing a summary trial, may in the first instance bring a regular action in the *adawlut*.

XXX. All persons having claims or complaints to prefer of the nature of those made cognizable by collectors under the provisions of this regulation, and not wishing to avail themselves of the summary process authorized in that court, shall be at liberty to institute their claims or complaints in the first instance by a regular suit before the local *moonsiff*, or in the *zillah* or city *adawlut*, or provincial court of the division, according as the suit may be cognizable in these courts respectively, under the general regulations for the administration of civil justice.

On appeal to a court against the decision of a collector, the proceedings held by that officer shall be called for and filed in the case.

XXXI. *First.* Whenever a regular suit may be instituted in the civil court, with a view to set aside or alter a summary judgment passed by a collector, the proceedings held on the summary inquiry shall be called for by precept from the court, and filed on the record of the case.

No such appeal cognizable by, or referrible to any register, *ameen*, or *moonsiff*.

Second. Provided also, that no such suit shall be cognizable by, or referrible to any register, *sudder ameens*, or *moonsiffs*, and all registers, *sudder ameens*, and *moonsiffs*, shall in cases tried by them be held and bound by the decisions passed, and records prepared, by collectors or other revenue officers under the provisions of this regulation, unless the same shall have been rescinded or altered by the Board, or by the *zillah* or other similar or superior court on a regular suit.

Periodical reports to be furnished by collectors to Boards.

XXXII. The collectors shall transmit to the Boards such periodical reports of the causes decided by, or depending before them, as the Boards may direct, and the Boards will also furnish to Government such abstracts of those reports, and such reports in the cases received and determined by them in appeal, as the Governor General in Council shall from time to time require.

XXXIII. *First.* It shall be competent to collectors, or other officers exercising the powers of collectors, to refer to arbitration any disputes cognisable by them under the provisions of this regulation, as well as any questions or disputes of any kind respecting land or the tenures therein, or the rights dependant thereon that may come before them, provided the parties consent to that mode of adjustment, and on award being made, to cause the same to be executed. In referring cases to arbitration under the above provision, and in their general proceedings relative to such suits, the collector shall be guided by the rules contained in Regulation XVI. 1793, and the other corresponding enactments, and in Regulation VI. 1813, in so far as the same may be applicable, and shall be competent to vest in the arbitrators the same powers and authority in regard to the summoning and examination of witnesses, and the administration of oaths, and to enforce the orders passed by the arbitrators under such powers, in the same manner as the courts of judicature are empowered to do; and all awards made on such references shall, when confirmed by the collector, have the same force and validity as a regular decree of the *adawlut*, and shall not be liable to be reversed or altered, unless the award shall be open to impeachment on the ground of corruption or gross partiality, or shall extend beyond the authority given by the submission of the parties, and such ground of impeachment shall be established in a regular suit in the *zillah*, city, or other superior court, wherein the case may be cognizable.

Collectors authorized to refer certain cases to arbitration.

Force of awards passed on such reference.

Second. In referring any dispute to arbitration, the collector shall be careful to specify in his proceedings, and in the deed of arbitration, to be executed by the parties, the precise matter submitted to the arbitrators; and if the award first made by the arbitrators shall not include all the points submitted to them, or shall be otherwise incomplete, it shall be competent to the collector again to refer the matter to them, with directions to perfect their award.

Matter of arbitrement to be distinctly specified in collector's proceedings.

Third. The *pergunnah canoogoes* and *tehsildars* may be appointed arbitrators in any case referred to arbitration under the above rules; any thing in the existing regulations notwithstanding.

Canoogoes and *tehsildars* may be employed as arbitrators.

XXXIV. *First.* When a collector, or other officer exercising any of the powers vested in collectors by the rules of this regulation, relative to complaints of dispossession or disturbance of the possession of lands or premises, shall learn either by a reference from the magistrate, or by a report from any other public officer or otherwise, that any disputes exist within the tract placed under his jurisdiction relative to any lands, premises, crops, orchards, pasture grounds, fisheries, wells, watercourses, tanks, reservoirs, or the like, likely to terminate in a breach of the peace, it shall and may be lawful for the collector or other officer aforesaid, to require the contending parties to attend in person or by representative at a stated time and place, and after investigating the case in the presence of the parties or their representatives, or such of them as may attend, or referring it to arbitration as above prescribed, to decide the case in the same manner as if it had been brought before him by the complaint of one of the parties: provided also, that if the fact of previous lawful possession cannot be ascertained, it shall be competent to the collector, subject to the orders and direction of the Board, to decide on the question of right, and to give possession to one of the contending parties, leaving the other party to contest the decision by a regular suit in court. But no such decision shall be passed by any collector, until he shall have instituted a careful inquiry into the fact of possession, and the Board shall be careful to see that this restriction is observed: provided further, that in such cases it shall be competent to the collector to attach the disputed lands, premises, &c. as aforesaid, and to appoint an officer to the management of the same, retaining in deposit the rents and produce, or such portion thereof, as may remain after discharging any public revenue demandable therefrom, with the charges of management, until one of the contending parties shall be placed in possession.

Collectors in what cases to interfere of their own motion in cases of disputed possession.

And to give possession to one of the contending parties.

Collector may attach disputed lands, &c.

Second. Whenever any magistrates or joint magistrates shall have before them any suit, complaint, or information relative to any dispute regarding lands, premises, crops, watercourses, or the like, which may appear likely to terminate in a breach of the peace, or which it may otherwise be desirable to bring to an immediate decision, it shall be the duty of such magistrate or joint magistrate, in cases in which the collector shall be vested with the cognisance of such actions, to certify the case to that officer, and the collector will then forthwith

Magistrates and joint magistrates in what cases to refer disputes to collector.

forthwith proceed to investigate and determine the case under the rules above prescribed: provided also, that in all cases of forcible dispossession, or forcible disturbance of possession, the collector shall invariably transmit to the magistrate or joint magistrate, a copy of the first proceeding held by him in the case, and also a copy of the *roobakaree* containing his final award.

Collector to encourage arbitration.

Third. The collector shall in all such cases use every proper means for inducing the parties to refer their disputes to arbitration, in like manner as the *dewanny* courts are directed to do.

Meaning of the term Board of Commissioners, &c. as used in this and other regulations.

XXXV. Whenever the term Board of Revenue or Board of Commissioners may occur in this or any other regulation, the same shall be held and considered to apply to any Board, committee, or commission, and to any member of such Board, committee, or commission that may be vested by the Governor General in Council, with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided.

Rules regarding collectors, to apply to any officer exercising authority of collector under orders from Government.

In like manner all rules in this or any other regulation, whereby any duties or powers may be prescribed for, or vested in collectors, shall be held and considered to be equally applicable to any officer exercising the authority of collector, under the orders or with the sanction of the Governor General in Council.

A. D. 1824. REGULATION I.

A REGULATION *for enabling the Officers of Government to obtain at a fair Valuation, Land or other immoveable Property, required for Roads, Canals, or other public Purposes; and for declaring in what Manner the Claims of the Zemindars, and of the Officers in the Salt Department, are to be adjusted in certain Districts, where Lands are required for the Purposes of Salt Manufacture.—Passed by the Governor General in Council, on the 8th January,* 1824; *corresponding with the 25th Poose* 1230 *Bengal era; the 22d Poose* 1231 *Fussily; the 26th Poose* 1231 *Willaity; the 7th Poose* 1880 *Sumbut; and the 5th Jumadee-ul-Awul* 1239 *Higeree.*

Preamble.

WHEREAS the rights and interests of individuals in their respective landed estates, and other property, have been secured to them, by the existing laws and regulations; and by the courts of justice, established for their administration: and whereas it being necessary occasionally to require the surrender of the property of individuals for purposes of general convenience to the community, it appears expedient distinctly to define the course of proceeding to be followed in such cases, in order, that works and arrangements of public utility may not be unduly impeded, and that, at the same time, a just and full compensation may be secured to all persons, holding an interest in property so appropriated; and whereas the peculiar circumstances of the lands, required for the purposes of the salt manufacture in the districts, comprised in the salt agencies of the 24-Pergunnahs, Jessore, and Bulloosh, and Chittagong, and the arrangements concluded with the *zemindars* at the time when the exclusive manufacture was first established, render it necessary specially to declare the principles on which the claims of the officers in the salt department, and of the *zemindars* in the said districts, are to be adjusted, on the occupation of land for the purposes of the salt department; the following rules have been enacted, to be in force as soon as promulgated, throughout the whole of the provinces immediately subject to the presidency of Fort William.

When ground wanted, officers of Government to call on proprietor to state terms, and any objection to transfer.

II. Whenever it may appear necessary or expedient to appropriate the whole or part of any individual's landed estate, or other immoveable property, or any thing thereunto belonging for the construction of a public road, building, canal, drain, jail, or for any other public purpose, then, if there be any hindrance to the purchase of the said property by private bargain, the officer entrusted with the execution of such public work, or any other officer, whom the Governor General in Council may direct, shall proceed to the spot and erect a flag thereon, causing, in cases in which it may be proposed to take land, the boundaries of the land so required to be distinctly marked out, but taking care, at the same time, to do as little injury as possible to the property; he shall then stick up in some convenient and conspicuous place in the vicinity, a notice of the land, or other property proposed to be taken, and the purpose for which it is required, and shall make proclamation by beat of drum, as well as on the spot, as in the nearest *bazar*, *gunje*, or village, calling upon any person or persons, claiming a right or interest in the land or other property, to appear in person or by an authorized agent, at a place to be specified in the notice and proclamation, on or before a given date, not being less than fifteen days; in order to make known the precise nature of

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the interest claimed, and the terms on which he, or they may be willing to dispose of their respective rights and interests; or if they object to the disposal thereof, to specify the same through the proper authorities for the information of Government, when the substance of all material information given in after such a notification, shall be submitted by those authorities to the Governor General in Council, together with a report of their sentiments on the case, and of the estimated value of the premises intended to be applied to a public purpose, and of the several interests attaching thereunto.

If parties refuse to dispose of property, Government may direct recourse to be had to arbitration.

III. *First.* If the person, or persons, having, or claiming to have a right and interest in the land, or other property, required for a public purpose, or in any part of it, shall object to the disposal of the same, or shall demand an exorbitant consideration, for the relinquishment of his or their interest, and the Governor General in Council, after duly considering the objections urged, and the demands made, shall notwithstanding deem it proper on ground of clear and urgent public expediency, that the property should be so appropriated, he will in either of the cases above mentioned order the election of arbitrators to ascertain and determine the just and full value of the whole of the property, intended to be applied to public use, including the rights of all persons holding a lawful interest therein, according to the rules herein after contained.

In certain cases, Government may delegate the power of directing a recourse to arbitration.

Second. Provided also, that when any extensive public work shall have been commenced on under the orders of Government, it shall be competent to the Governor General in Council, by an order in Council, to delegate to any board, committee, or the like, the duty and power of determining on all objections to the disposal of individual properties, which it may be considered necessary to appropriate for the purpose; and the board or committee so empowered shall be competent to issue the requisite orders, for the appointment of arbitrators for the purposes and in the manner hereinafter provided, without previous reference to Government.

Arbitrators how to be appointed, and how to conduct their inquiries.

IV. *First.* Whenever it may be requisite to have recourse to arbitration, for the purpose stated in the preceding section, the following rules shall be observed in the appointment of the arbitrators, and in the conduct of their inquiries.

Two arbitrators on the part of Government to be selected by what officer.

Second. Two persons of respectability shall be chosen to act as arbitrators on the part of Government, by the judge or magistrate, or collector of the district, in which the land or other property required for public use may be situated, or such other officer as the Governor General in Council may commission for the purpose of superintending the arbitration; and the party or parties claiming an interest in the premises proposed to be taken, shall be called upon by the judge, magistrate, collector, or other officer aforesaid, to elect, within a reasonable time, to be fixed by such officer, two persons to act as arbitrators on his, or their part. If there be several claimants, and they cannot agree, within the required period, in the election of persons to act as arbitrators on their behalf, then and in that case each of them shall nominate one person, whom he may desire to act on his behalf, and the judge, magistrate, collector, or other officer aforesaid shall choose by lot out of the persons so nominated by the parties or any of them, two persons to act as arbitrators on behalf of the claimants. If only two persons shall be so nominated, they shall be the arbitrators on behalf of the claimants, whether the whole of the claimants may, or may not have been concerned in their nomination. If only one person shall be so nominated, then only one of the persons selected to act as arbitrators on the part of Government, shall be employed on the duty. If the claimants shall refuse or neglect to make any nomination within the required period, then the judge, magistrate, collector, or other officer shall, and may select two impartial persons, residents of the *pergunnah* or other local division, to arbitrate the matter between Government and the parties.

Parties to be required to elect two arbitrators, to act on their behalf.

Arbitrators how to be selected out of the nominees of the parties, if more than two.

Course to be followed, if only two persons be nominated.

If only one person be nominated.

Declaration to be made by arbitrators.

Third. The arbitrators chosen as above shall be required by the judge, magistrate, collector, or other officer aforesaid, solemnly to promise that they will faithfully and impartially discharge the trust reposed in them, to which effect they shall sign a solemn declaration. But no corporal oath shall be administered to them.

Umpire how to be chosen.

Fourth. As soon as the said obligation shall be signed, and before they proceed to any other duty, the arbitrators shall be required by the judge, magistrate, collector, or other officer aforesaid, to appoint an umpire for the decision of any points whereon they may differ

in opinion, and the voices on each side may be equal. If the arbitrators cannot agree in the selection of an umpire, the judge, magistrate, or other officer commissioned as aforesaid, shall be authorized to choose some respectable and impartial person to act as such.

Functions of the umpire.

Fifth. In cases wherein the arbitrators may differ in opinion, if the voices on each side shall be equal, the decision of the umpire on the point of difference shall be conclusive. In all other cases, the opinion of the majority of arbitrators shall determine the award.

Residing officer to exercise what powers to secure attendance of the arbitrators, and completion of the award.

Sixth. The judge, magistrate, collector, or other officer commissioned as aforesaid, shall be competent to exercise towards the arbitrators, and umpire chosen as above, such powers and authority for the purpose of securing their attendance and the due completion of their award, as the courts of judicature may or shall legally exercise towards persons summoned as witnesses before them for the purpose of compelling them to attend and give evidence. It shall further be competent to the judge, collector, or other officer commissioned as aforesaid, in the event of any unnecessary delay on the part of arbitrators in determining any point referred to them, to call upon them to make their award within a specified time, and in default thereof to refer the matter to the umpire for his decision.

In what cases may refer the matter to umpire.

Arbitrators to act under the judge, collector, or magistrate of the district.

Seventh. The arbitrators shall hold their inquiry, under the general superintendence of the judge, magistrate, collector, or other officer commissioned as aforesaid.

Who shall cause witnesses to attend the arbitrators.

Eighth. The judge, magistrate, collector, or other officer so commissioned, shall afford to the arbitrators all necessary aid and support, for enabling them to accomplish the object of their appointment. He shall, on the application of the arbitrators, summon, and is hereby authorized to summon, any witnesses, whom the arbitrators may call for, and whom the parties may not be able to produce before them, without such process. He shall also cause the proper forms of oath to be administered to, or a solemn declaration in lieu thereof to be executed by any witnesses, whom the arbitrators may desire to examine upon oath, or solemn declaration, or he may empower the arbitrators to administer such oath, or to cause the execution of such solemn declaration in lieu thereof, if the witness cannot, with convenience, attend at the *sudder* station of the *zillah*. Any person giving intentionally and deliberately a false deposition on oath, or under a solemn declaration taken instead of an oath, in any case referred to arbitration as above, and upon a point material to the issue thereof, shall be held and considered to be guilty of perjury, and shall be liable to the penalties prescribed for that offence in the regulations; and any person causing or procuring another person to commit the offence of perjury, as above described, is declared guilty of subornation of perjury, and punishable under the provisions of the said regulations.

Information to be furnished to arbitrators by the officer superintending the execution of the work.

V. When arbitrators may be appointed, it shall be the duty of the officer employed in the manner specified in Section 2. of this regulation, to lay before them a statement of all claims made to him under the rule of that section; also to notify which of them remain unadjusted, and to furnish upon requisition of the arbitrators, all information in his power, as to the extent and boundaries of the land proposed to be taken, the claims attaching to it, the state of possession and the like. Furthermore, in the event of any dispute, arising on any point connected with the extent, boundary, present possession, manner of culture, or of other appropriation of the land, or any portion of it for the time being, it shall be competent to the said arbitrators to cause the land, or other property in question, or any part of it to be measured in their presence, or otherwise in such manner, as they may deem most desirable.

In what cases arbitrators may measure.

Compensation for *lakheraj* land, how to be determined.

VI. *First.* If the land required by Government be *lakheraj*, or for such portion of the land as may be of that description, it shall be the duty of the arbitrators to determine in the first instance, what consideration is in their opinion a fair value for the whole property proposed to be assumed or destroyed in the execution of the public work in hand, or which will otherwise be lost to the owners, or affected by reason of the appropriation by Government.

Arbitrators how to proceed in cases of dispute between parties holding different interests in the land.

Second. If a dispute arise between the owner or owners of the *lakheraj* tenure on one hand, and the cultivators or renters under him on the other, as to the proportion of such entire value, which each should receive in exchange for the interest claimed, or possessed by him, the arbitrators shall not enter into this part of the case, unless both or all the parties interested shall desire the adjustment of the points in dispute to be made by them at the time.

So likewise, if there be more claimants than one to the *lakheraj* interest, and it shall be necessary to determine the mode in which the value of that interest is to be apportioned amongst the claimants, such apportionment shall not be made, unless all the claimants sign a written agreement to abide by the arbitrator's adjustment of the same. Any award made by arbitrators after agreement being signed by the parties at issue, shall have effect, and be considered as an award of court to all intents and purposes; but if no award be made in consequence of the parties not having agreed to abide by such determination, it shall be open to any one of them to carry the point or points at issue, before the courts in the usual manner, and if the Government take the lands, tenements, or other property on the terms fixed by the arbitrators, it shall be competent to the court trying the case, upon due application being made, to order the whole or any part of the value paid by Government to be held in deposit to answer an eventual decree. Provided, however, that nothing herein contained, shall be considered to warrant any alteration being made by any order or decree of court, in the rate of the consideration, fixed by the arbitrators to be paid by the Government, or the issue of any orders, affecting the possession that may have been assumed by its officers, or acts that may have been done by them in consequence of such arbitration.

Adjustment how to be made for land subject to the payment of revenue.

Third. If the land, proposed to be assumed for the purposes aforementioned, be *khirajee* land, or for so much of it, as may be of that description, it shall be the duty of the arbitrators to determine first the amount of the net rent, which the *sudder malguzar* may derive from the land, as far as they can ascertain the same; Secondly, the value of any other property, or interest, which the said *malguzar* may possess in, upon or belonging to the land; and Thirdly, the value of any property, or interest, which may be possessed by persons other than the *sudder malguzar*. They shall, at the same time, state the value of the net rent, derived by the *sudder malguzar*, and it shall be competent to the Governor General in Council, to determine what proportion of the compensation due to that person, for the loss of the said rent, shall be made good in the shape of an annual remission of revenue, and what shall be commuted for a payment in ready money, to be calculated at the rate assumed in the valuation of the arbitrators. In estimating the net rent no deduction is to be made from the gross rental of the *sudder malguzar*, on account of the Government revenue, with which his estate may be assessed. And it shall be the duty of arbitrators, in fixing the value of the net rent, derived by the *sudder malguzar*, from the land taken for public purposes, conjointly with the value of other interests possessed therein, so to regulate the two that the whole shall constitute what would have been a fair value for the property, supposing it to have been *lakheraj*, and held free of all burthen, or encumbrance, and the arbitrators shall in every case of this description certify at the foot of their report, that the above direction has been observed.

Rights of parties claiming an interest in land, taken by Government, how to be adjusted.

Fourth. Whenever any revenue deduction may be ordered, it will of course be passed in the revenue accounts to the credit of the *mohaul*, on account of which it may be awarded by the arbitrators, in whosesoever possession the same may be. Should the proprietor of any other *mohaul* claim to participate therein, it shall be open to him to prosecute his claim by suit in court, against the proprietor of the *mohaul* on account of which it may be paid. Provided, however, that in case any litigation between the proprietors of different *mohauls* claiming to participate in the deduction, awarded by arbitrators, be submitted to their award in the manner above provided for the case of *lakheraj* lands, the same, when made, shall be binding, and have effect to all intents and purposes, as a decree of court. So likewise if there should arise a difference or dispute as to the manner and proportions in which the money compensation to be given by Government upon the occupation for public purposes of *khirajee* land, shall be divided between the *ryots* and under tenants, or between them and the Government *malguzar*, or between any other classes of persons claiming to participate; the course shall in all such cases be the same, as is prescribed in the preceding clause of this section for the case of *lakheraj* lands, which may have been taken possession of for public purposes by Government, and of disputes, arising in the apportionment of the consideration, adjudged to be paid in consequence.

Arbitrators how to proceed when the possession is doubtful.

Fifth. If the question of possession shall in any case be doubtful, or if there exist other grounds, which, in the judgment of the arbitrators, render it improper to make immediate payment of the compensation awarded by them, or any part thereof, to any of the claimants,

it shall be the duty of the arbitrators to certify the circumstance to the judge, magistrate, collector, or other officer, under whose directions they may act, and in such case the amount which they may propose to reserve shall be invested in Government securities, and held in deposit, until one of the claimants shall obtain an order of court, for the payment of the same. But no dispute touching the property, or possession of land, or other property required for public purposes, nor any flaw in the title of the party by or from whom it may be transferred to Government, on the award of arbitrators, shall be allowed to defeat, or disturb the title, acquired by Government, and if any person or persons shall sue in any court of judicature to recover from Government, damages or compensation for the loss of any such land or other property, such person or persons shall be nonsuited with costs. Provided also that in cases wherein the possessor and ostensible proprietor of any land, or other property required for any public purpose, shall have consented to transfer the same to Government on terms mutually agreed to, it shall be competent to the Governor General in Council, or any board or committee, authorized by him in that behalf, to cause proclamation to be made in the manner prescribed in the second section of this regulation, requiring all persons claiming any right, title, or interest in such land or other property, to prefer their claims on or before a certain date; and after such proclamation shall have been made, and the land or other property shall have been transferred to Government, any claim or suit to recover the same, or to obtain from Government compensation for the loss thereof, which may be preferred in any court of judicature, shall be dismissed with costs, unless the claim shall have been preferred as required by the said proclamation. But nothing herein contained shall affect the liability of the party, who may receive the value of any land or other property transferred to Government, without having a good title to the same.

Possession by Government of property transferred to it under this regulation not to be disturbed, or defeated by reason of any matter, touching the right or title of the former occupant.

VII. *First.* On the close of the inquiry, the arbitrators or umpire shall deliver to the officer commissioned as aforesaid to superintend the arbitration, a full and specific report and award, upon the point or points submitted to their arbitration under their respective signatures, with a solemn declaration subscribed thereto, that the award so given is, to the best of their judgment, true and impartial, and according to the evidence adduced before them: they shall at the same time deposit with the said officer the whole of their proceedings.

Award how to be given by arbitrators.

Second. The aforesaid officer shall transmit to the Governor General in Council, the report and award so delivered to him, with a report, stating the material points thereof and his sentiments, how far the inquiry made by the arbitrators appears to have been conducted with fairness and impartiality, or otherwise; and the said officer shall be guided by the instructions of the Governor General in Council in regard to the execution of the award, when the same shall have been approved by Government.

Officer receiving award how to proceed.

Third. No award made under this regulation shall be liable to be reversed or altered, unless the same shall be open to impeachment on the ground of corruption or gross partiality, or shall extend beyond the authority given to the arbitrators, and such ground of impeachment shall be established on a regular suit in the *adawlut*.

Grounds on which a lone award shall be impeached.

Fourth. If, after the award has been given in by the arbitrators, and the Governor General in Council shall have directed the premises to be appropriated for public purposes, the officer directed to occupy the same shall be opposed, or impeded in taking possession, he shall apply to the magistrate of the district, to whom it shall and may be lawful to enforce the surrender of the said premises.

Surrender of property required for public purposes to be enforced by magistrate.

Fifth. In cases referred to arbitration, under the provisions of the preceding sections, any necessary expense, which may attend the inquiry of the arbitrators, whether for the diet of witnesses or otherwise, shall be paid by Government.

Expenses to be paid by Government, in cases referred to arbitration under the above rules.

VIII. The rules contained in the preceding sections of this regulation, shall not be held to be applicable to the removal from the bed or banks of navigable rivers or streams, of trees, broken boats, timbers, or the like, which may obstruct, or be likely to obstruct the navigation of such rivers and streams. Such obstructions may be summarily removed by the magistrates of the several cities and *zillahs*, or by such other officer or officers as the Governor General in Council may by an order in Council, vest with the superintendence of any such river or stream, under the laws and usages applicable to the removal of nuisances, and such special provisions as may hereafter be enacted.

The above rules not applicable to the removal of obstructions to the navigation of rivers.

The above rules not to be applicable to lands, required for the use of the salt department, unless so expressly provided.

IX. *First.* Since the revenue, derived by Government from salt, within the provinces of Bengal, Orissa, and Cuttack, is realised, in the form of a monopoly of the manufacture, under a system established in the years 1780 and 1781; and since, in the prosecution of this system, Government have been, in the occupation of certain lands adapted to the manufacture, and have all along exercised the privileges of assuming what has appeared to be fitted for the purpose, the same being at the time of such occupation wholly, or for the most part, unfit for cultivation, or for yielding profit by any other means, the above provisions shall not be considered to apply to the case of these lands, except in so far as they may be specially declared to extend to them in this or any future regulation.

Rules for the adjustment of relative rights of the *zemindars*, and the officers of the salt department, founded on the result of a special inquiry.

Second. An investigation having been instituted, under the orders of the Governor General in Council, with a view first to determine the character of the remissions of the land revenue allowed annually, from the time of the establishment of the present system of manufacture, to certain *zemindars* in the districts, comprised in the salt agencies of the 24-Pergunnahs, Jessore, Bhulooah, and Chittagong; and secondly, to settle the claims of the *zemindars*, and the officers of the salt department at the agencies in question, respectively on each other. The following declarations and rules calculated for all results of such investigation are hereby made and enacted, and the courts of civil judicature, the officers of the salt and land revenue departments, and all other public authorities are to be by them guided in their determination of any question, that may arise as to the right of the officers of the salt department to occupy salt lands, or other lands, required for the purposes of the salt manufacture, and the rate of compensation to be paid for the same.

Khalaree remissions granted on the first establishment of the monopoly, on what principle allowed.

Third. The principle upon which remissions were originally made, from the *jumma* of *zemindars*, on account of *khalaree* rents, or the like, upon the assumption of the salt *mohaul* is hereby declared to have been to relieve those to whom they were granted from an assessment upon assets, which were transferred to Government on the establishment of the system of exclusive manufacture, with the rights and interests attached to the possession of the *mohaul*.

To be continued in perpetuity.

Fourth. All *zemindars* or others, whose claims to remissions were allowed in the first instance, that is, on account of rents collected by them, previously to the year 1188 B. S. shall be considered to fall within the class of land renters, who received an abatement of what they then ceased to collect, upon the principle above laid down; consequently it is hereby declared, that the sums remitted to them will be allowed in perpetuity.

No further remissions or abatements on account of salt or fuel land to be allowed without authority of Government.

Fifth. The collectors of land revenue, and the Board are prohibited henceforward from receeiving any applications to obtain credit in the land revenue collections for any amount, claimed as due for *khalaree* rent, and from allowing of any abatement or remission whatever from the land revenue *jumma*, except the specified remissions allowed on account of rents collected previously to 1188, or such other as may be hereafter ordered by the Governor General in Council.

Claims by *zemindars* to *khalaree* rents, how to be prosecuted.

Sixth. Any land revenue engager, who may prefer a claim to receive rent for *khalaree* now worked, or for what may be so henceforward, or for any that have been worked, and for which the rent of past years may be claimed to be due, shall be desired to make application to the salt agent to have the same adjusted on the principles declared hereafter.

Collection of *khalaree* rents from *molungees*, unless where authorised by Government, to be discontinued.

Seventh. The remissions allowed on account of rents collected previously to 1188, will still be retained on the revenue books, and will be carried to the debit of the salt department, but the levy of *khalaree* rents, *bara kuraa*, or the like, from the *molungees*, will be entirely discontinued, and the impost abolished from the commencement of the next salt year, save and except in cases wherein it may be otherwise specially ordered by the Governor General in Council; and henceforward any *gomashtah* or other person attempting to enforce the impost, or demanding it in any shape without special authority from Government, shall, on proof to the fact before the agent, be immediately dismissed.

Also tax on fuel.

Eighth. The levy of *goorkatee* by the officers of Government from the *molungees*, or of any other similar tax on the privilege of cutting *jungle* for fuel, to be used in the manufacture of salt, shall in like manner, and with the like exceptions, be henceforward discontinued, whether the same be levied as an impost due to Government or otherwise.

Ninth.

Ninth. All future contracts for the delivery of salt in return for advances received shall, as far as practicable, specify distinctly the proportion of the aggregate price paid by Government, which may be allowed to cover the expense of fuel, and shall otherwise be rendered as specific as possible, with a distinct declaration of the amount to be paid to the *moturgees* without impost or deduction on any account whatever, unless when otherwise specially authorized by Government.

Contracts for the manufacture of salt, what to specify.

Tenth. It shall be the duty of the agents to ascertain and record at the time of making the advances next season, or as soon after as may be practicable, in whom the property of the *khalarees* and salt lands within their respective divisions is vested.

Agents to ascertain and record in whom the property of salt lands is vested.

Eleventh. Salt lands worked by the salt department, from the time of the assumption of the monopoly to the present day, or otherwise assumed and held before, and since the perpetual settlement (although originally belonging to an estate, for which a permanent settlement has been formed), shall be considered to be held by the officers of the salt department free of rent under a perpetual title of occupancy, and shall be considered to, and to have been liable to assessment by the revenue authorities, when relinquished by the officers of the salt department, in the same manner as if they had been farmed by an individual from Government, and had become open to re-settlement on the expiration of his lease.

What lands to be considered as held by the officers of the salt department free of rent under a perpetual tenure, and to be eventually liable to assessment by the revenue authorities.

Twelfth. Salt lands, upon which salt works have been established, whether before or after the perpetual settlement shall, provided they have been worked for twelve years without claim on the part of any one to receive a rent or compensation for the use of the same, be deemed to be the absolute property of Government.

What lands to be considered as the property of Government.

Thirteenth. Salt lands, upon which salt works were established after the perpetual settlement, and for the use of which a rent or consideration may be now paid to individuals shall, until otherwise determined by a decree of court, be deemed to be the property of the said individuals, who for so long as the lands may be occupied by the salt department shall receive the same rent as they received for the use of the same in the past year. The rent is to be paid in money, and to be charged in the salt agent's accounts, amongst other expenses of the manufacture, without any demand being made on the contractors or *moolungees* on account thereof unless otherwise specially authorised. This payment is to continue as long as the salt department shall retain possession of the lands, and to cease when those lands shall lose their saline quality, and be given up by the salt agents. Provided however, that nothing in this clause shall be construed to preclude the revenue officers from proceeding under the rules of Regulation II. 1819, to assess the lands so occupied by the salt department, if the same be chargeable with revenue on account of the rent paid by that department, or the collections otherwise made by the party claiming to be proprietor.

What lands to be considered as belonging to individual proprietors.

Rents how to be paid.

X. *First.* Salt lands may be occupied as heretofore by the officers of the salt department, an adequate compensation being made to the proprietors if the lands be private property. The salt agent on taking possession of any such land shall notify the circumstance by causing a flag to be exhibited on the spot, and by publishing an *ishtahar*, defining as accurately as possible, the situation and limits of the land occupied by him, such *ishtahar* to be stuck up in the collector's *cutcherree*, and the agent's own office, and persons claiming to be proprietors of such land, who may neglect or delay to prefer such claims, shall not be held entitled to any arrears of rent beyond the year in which their claim may be afterwards preferred.

Salt lands, how to be occupied by officers of salt department.

Second. Upon any *zemindar* preferring a claim to property in lands occupied for the salt manufacture, and for which no rent or consideration shall have hitherto been paid to any individual, the salt agent and collector, or both, where the two offices may be held separately, shall either proceed in person or depute a substitute or substitutes, being if possible European public officers, to determine by inquiries on the spot, how far, with reference to the principle laid down in Section 3, Regulation II. 1819, the *chur* or other salt land is part of the *zemindar's* estate. The collector will, at the same time, call upon the *zemindar* to produce any evidence or documents on which he may rely in proof of his claim, and shall regularly enter the same on the proceedings, together with a statement of the fact, established by the local inquiry (whether

Claims to lands so occupied how to be prosecuted and adjusted.

ther conducted by the collector himself, or by an officer specially commissioned), and shall finally record his own opinion on the case in a Persian or Bengalee *roobucaree*. If the collector shall be satisfied, that the land in question is part of the *zemindar's* estate, he shall adjust, subject to the instructions of the Board of Revenue, the consideration to be paid by the salt department for the use of the *chur* or other salt land, carefully specifying the extent and limits of the same. If the *zemindar* shall not agree to the terms proposed by the collector, the amount of rent or compensation to be paid shall be settled under the rules above enacted for settling generally the course to be followed in effecting a constrained transfer of private property for public purposes, reference being had to any injury the *zemindar* may sustain by having the manufacture conducted on his estate, as well as to any profit he might otherwise derive from the land. If the agent shall consider the amount awarded to the *zemindar* to be too great, he shall nevertheless pay it for the first year, and may then remove. If the agent shall agree to the award, the same rate will be paid annually during occupancy without reference to what may be the subsequent extent of the manufacture, or to the quantity of land comprised in the *chur*.

What course to be followed, if land claimed by *zemindars* shall appear to collector to belong to Government.

Third. If on a claim being preferred as above by a *zemindar*, the collector shall be of opinion, that the *chur* or salt land belongs to Government, he shall nevertheless proceed to adjust with the agent the amount of rent, to be paid by the salt department for the use of it, and will in this case transmit his proceedings to the Board for their decision on the *zemindar's* claim. Provided also, that in cases in which the collector may decide in favour of the *zemindars*, it shall be still competent to the Board to call for his proceedings, and to pass judgment on the claim, whenever from the representation of the salt agent, or otherwise, they may see reason to think the decision of the collector erroneous. The decision of the revenue authorities, when in favour of Government, will be of course liable to be contested by suit in court. If the property in any land occupied, as aforesaid, shall be decreed to the claimant, he will become entitled to the rent with which the revenue authorities may have charged the salt department: and if he be dissatisfied with the rent so fixed, the amount to be received by him shall be settled by arbitration in the manner hereinbefore provided for the adjustment of the compensation to be paid for land taken for public purposes. But in such case the possession of the salt agent shall not be disturbed, so long as he shall discharge the rent awarded to the proprietor.

Pending claims how to be adjusted.

Fourth. The same mode of adjustment shall be observed in regard to all claims now pending for compensation for the use of salt lands, but no remission of revenue shall be granted on this or the like account.

Rent of land occupied by salt department, when to cease.

XI. The rent of land occupied by the salt department shall be payable, unless otherwise specially settled, by the Bengal year, and whenever a salt agent shall see fit to remove from any salt lands occupied by him, he shall cause the flag to be withdrawn within one month, after the expiration of the manufacturing year, and shall further give notice of his intention to do so by an *ishtahar*, published in the mode directed to be followed on the first occupation of salt lands, such notice to be given before the commencement of the ensuing Bengal year; and if any agent shall neglect to give due notice as aforesaid, and shall not be otherwise able clearly to shew that the owner of the land occupied by him was fully apprised of his intention to quit previously to the expiration of the last year of his occupancy, then the owner shall be entitled to recover damages to the extent of one year's rent of the land, but shall not have any further claim on the agent, or Government, on account of arrears of rent, unless such arrears shall be due on account of years included in the term of a specific engagement.

Cultivation of salt *chirs* without permission of Board of Customs, Salt, and Opium, prohibited.

XII. No cultivation shall be allowed within the limits of any *chur* or other lands transferred to the salt department, unless with the permission of the Board of Customs, Salt, and Opium, so long as the manufacture shall be continued on the same; and it shall and may be lawful for the salt agent, and his subordinate officers, to attach, confiscate, and dispose of, as may be directed by the Board, any crops grown on such land in contravention of this rule, and to require the police to aid him in doing so. And any person illicitly cultivating, clearing, or ploughing such land, or doing any act preparatory to its cultivation and clearance, or causing another to do so, shall, on conviction before a magistrate, be subject for every such offence to a fine not exceeding five hundred rupees, besides being liable in a civil action for any damages which the salt department may sustain. Provided, however, that if any

chur or other salt land occupied as above shall become through natural causes useless for the purposes of the salt department, the proprietor thereof shall be entitled to recover possession of the same on establishing the fact to the satisfaction of the Board of Customs, Salt, and Opium, or by a regular suit in court, and on relinquishing the compensation paid to him by the salt agent for the use of the land.

Churs and salt lands not belonging to individuals, how to be held by the officers of the salt department.

XIII. *Churs* and salt lands, now occupied by the salt department, and for which no compensation may be now paid or be hereafter adjusted to be due, as well as all such *churs* and salt lands, as may be declared to be the property of Government, shall be held by the salt agents under regular *pottahs* from the collector, containing as accurate a specification as possible of the extent and limits of the land. All such lands shall upon their losing their saline quality, and becoming unfit for the salt manufacture, be made over to the collector, and if cultivation be found in such *churs* or lands before or after the officers of the salt department may have relinquished them, it shall at any time be competent to the collector to cause a settlement to be made on the part of Government with the actual cultivators, without reference to the pretension of any one else to take the rents from these. In like manner the revenue authorities may sell the Government interest in such lands, or let them in farm with such assessment, as it may appear proper to impose.

Rules for settling the relative rights of *zemindars* and Government in respect to fuel lands.

XIV. *First.* The following rules are enacted for the purpose of defining and settling the relative rights of Government and of the *zemindars* in regard to the waste lands whence fuel is procured for the salt manufacture, with reference to the principles on which the monopoly was established at the period above mentioned and the practice since followed.

Where no specific engagements exist, the salt department shall be held to be entitled to free fuel, to the extent of the existing manufacture from waste land within estates, of which the owners receive remissions.

Second. In cases wherein no engagements may have been entered into, for specific lands with ascertained limits, the salt department shall be considered to have the right of free fuel from all *jungle* or waste land lying within estates, the owners of which are allowed a remission of revenue, or receive rent from or on account of the salt department, to the full extent of the manufacture now established, so long as the said remission and rent shall continue to be allowed and paid. Fuel required for new or additional *khalarees* is to be procured by agreement with the owner, or cut from land the property of Government.

The above provision not to affect rights specifically reserved, nor to entitle the officers of salt department to prevent cultivation.

Third. Nothing contained in the above clause shall be construed to affect the rights of Government in land specifically reserved for the supply of fuel, nor shall the above provision be construed to authorise the officers of the salt department to prevent the cultivation of waste or *jungle* land, unless the same shall have been reserved under specific engagements. If it be required to reserve any fuel lands beyond those already reserved for the use of the salt department, an arrangement must be made for the purpose with the proprietors of the land, or measures taken for effecting the transfer of them to Government as hereinafter specified.

In what cases recourse shall be had to the proceeding specified in Section 4.

Fourth. If any *zemindar* shall refuse to allow the salt officers to take on reasonable terms the fuel required by them from the *jungle* lying within his estate, such fuel not being demandable, under the second clause of this section, the necessary fuel shall be taken, and a just compensation settled under the rules prescribed in the third and four following sections of this regulation. The same course of proceeding shall be followed in cases in which the interest of the salt department shall render it necessary to reserve any parcel of fuel land, and the owner thereof shall refuse to surrender it on equitable terms.

Declaration as to the extent of privilege secured to the salt department by remissions granted on account of collections made previously to the Bengal year 1188, in cases wherein further rents, or remissions may have been granted.

XV. In cases wherein any rent or remission may have been paid or allowed to any *zemindar* or other proprietor of land, in addition to the remission granted on account of *khalaree* rents, collected previously to the Bengal year 1188, the receipt of the remission last mentioned shall be held only to bind the *zemindar* or other proprietor of land receiving the same, to allow the right of free fuel to the extent of the manufacture established in the year aforesaid; and on the other hand, the Government shall not be bound to continue any rent or remission now paid or allowed in addition to the remission granted as aforesaid, if the manufacture shall be reduced to the standard of the said year, but on the discontinuance of the *khalarees* established since that period, or on the reduction of the extent of manufacture to the standard of the said year, Government shall be entitled to discontinue any rent or remission paid or allowed on account of such *khalaree*, and further shall be competent to cause a new adjustment to be made of the rent or remission to be hereafter paid on account of *khalarees* established since the year above mentioned.

A. D. 1824. REGULATION IX.

A REGULATION *to extend, with certain Exceptions and Conditions, the existing Settlement in the conquered Provinces and in Bundelcund, for a further Period of five Years.*—PASSED *by the Governor General in Council, on the 1st July* 1824; *corresponding with the* 19*th Assaar* 1231 *Bengal era; the* 20*th Assaar* 1231 *Fussily; the* 20*th Assaar* 1231 *Willaity; the 5th Assaar* 1881 *Sumbut; and the 3d Zekaad* 1239 *Higeree.*

Preamble.

WHEREAS the existing settlement in the conquered provinces and in Bundelcund will expire with the ensuing Fussily year 1232; and whereas, with certain exceptions, it appears to be expedient to extend the said settlement for a further term, in cases in which the settlement has been formed with *zemindars* or other persons recorded as proprietors or possessors of a permanent interest in the *mohaul* for which they have engaged, or as the representatives of such persons; and whereas it appears also to be desirable to provide for the continuance of the engagements of *zemindars* and other persons as aforesaid, subsequently to the expiration of the period, specifically fixed for the same, until a careful revision of the settlement can be completed; and whereas it is desirable to make further provision for securing the improvement of the country; the following rules have been enacted, to be in force throughout the British territories immediately subject to the government of the presidency of Fort William, from the date of their promulgation.

The existing settlement in the conquered provinces and in Bundelcund extended in certain cases for a further period of five years.

II. *First.* The existing settlement in the conquered provinces and in Bundelcund, (with the exceptions and subject to the provisions hereinafter stated) shall be extended to a further period of five years, viz. for the years 1233 to 1237 Fussily inclusive, in cases in which it may have been concluded with *zemindars*, *lumberdars*, or other persons recorded as the proprietors or possessors of a permanent interest in the *mohaul* for which they may have engaged, or as the representatives of such persons.

Zemindars declining to continue their engagements for such period, to notify the same to the revenue authorities on or before the 15th of October next.

Second. If any *zemindars* and other persons aforesaid shall be unwilling to continue their engagements for a further period of five years on the terms specified in this regulation, they shall notify the same to the collector, or other officer exercising the powers of the collector, to whom they may be subject, on or before the 15th October next. And all *zemindars* and other persons aforesaid who shall not make a notification to the effect and within the period abovementioned, shall be held and are hereby declared to be responsible for the payment of the same revenue for each of the five years subsequent to the settlement now in force, viz. for the years 1233 to 1237 inclusive, as may be specified in their engagements for the year 1232 Fussily, and in such cases no alteration shall be made in the *jumma* demandable by Government on account of the *mohauls* held by such persons (excepting as hereinafter excepted) until the expiration of the said period of five years.

Or failing to do so, declared responsible for the payment of the present *jumma* during the ensuing five years.

The *jumma* in such cases to remain unaltered.

Third. It shall be competent to collectors and other officers exercising the powers of collectors, subject to the orders of the Board of Revenue, to which they may be subordinate, to exclude from the operation of the above rule, any *mohaul* or *mohauls*, of which a revised settlement may have been made or be about to be made under the rules of Regulation VII. 1822, or in regard to which there may, in the judgment of these authorities, exist any special reasons for effecting an early re-settlement of the same; and in the case of *mohauls* of the last description, it shall be competent to the collectors, or other officers aforesaid, to make an immediate re-settlement of the same on the expiration of the existing leases, or to grant to the persons under engagements renewed leases for such further term (not exceeding five years) as the Board may direct. Provided however, that in all cases, in which it may be determined

Collectors empowered to exclude certain *mohauls* from the operation of the above rule, should any special reasons exist.

And declared competent to form a re-settlement of such *mohauls*, or renew the leases of them for a further period.

Proviso as to notice to be given of such determination by collectors.

termined to adopt special measures as above, in regard to any *mohaul* or *mohauls*, the collector or other officer aforesaid shall give notice of such determination in writing to the person under engagements for the same on or before the 1st March 1825. A *perwannah* delivered to, or left at the usual residence of the *malguzar*, or a notification stuck up, under orders of the collector, in any conspicuous place within the *mohaul*, shall be held to be sufficient notice for the above purpose.

The above rules not to affect engagements already entered into.

Fourth. The above rules shall not be held to affect the terms of any engagements which may have been specifically entered into on account of any year or years subsequent to the general settlement now in force.

Zemindars, &c. whose engagements may be continued, allowed after the expiration of such leases to hold their lands at the same annual *jumma* until the formation of a revised settlement.

Fifth. *Zemindars* and other persons as aforesaid, whose engagements shall be continued for a further period of five years, as above provided, as well as allo ther persons who may hereafter enter into engagements as proprietors, or as the representatives of proprietors, shall, after the expiration of the leases so extended or granted, hold the *mohauls* for which they may have engaged or may hereafter engage, and shall continue to be subject to the payment of the same annual *jumma* as may be chargeable on account of the last year of their lease, until the collector, or other officer exercising the powers of collector, shall effect a detailed revision of the settlement in the mode prescribed by Regulation VII. 1822, or shall be otherwise specially authorized by Government to make a fresh assessment. Provided also, that no *zemindar* or other *malguzar*, as aforesaid, shall be liable to pay on account of any year a higher *jumma* than that payable under the above rule, unless he shall have been apprized of the Board's approval of the new assessment on or before the month of Jeth preceding: nor shall any such *zemindar*, or other *malguzar*, be ousted from the management of any *mohaul* for which he may be under engagements, without such notice, except by due course of law, on a decision in favour of the title of another party claiming the property of the same.

Proviso against the payment of a higher *jumma* by *zemindars*, unless timely apprized.

Such persons declared not liable to be ousted from the management of their lands without notice given, except by due course of law.

III. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases, for such a period as the Governor General in Council may direct: a preference shall be given to the *zemindars*, or other persons possessing a permanent property in the *mohauls*, if willing to engage for the payment of the public revenue on reasonable terms. Provided also, that in cases wherein such *mohauls* may be let in farm, the term of the lease granted to the farmers shall not, excepting as hereinafter excepted, exceed twelve years. The above rules shall likewise be applicable to estates now held *khas*; so in any case wherein the *zemindars* and other proprietors may refuse to continue their existing engagements on equitable terms, it shall be competent to the revenue authorities to let the lands in farm for such period (with the restriction herein specified) as the Governor General in Council shall appoint, or to assume the direct management of them, and to retain them under *khas* management during the period aforesaid, or such shorter period as may be judged proper. Provided also, that in cases wherein it shall appear that the *zemindars* have wilfully reduced the cultivation of their lands, or otherwise deteriorated the *mohaul* under their engagements in their occupancy, it shall be competent to the revenue authorities to exclude persons so offending, and to let the lands in farm for a period of fifteen years: leases for a like period may also be granted to *zemindars* and farmers in cases where from special local circumstances, the measure may appear necessary with a view to the reclaiming of waste, the construction of works requisite for the extension of cultivation, or otherwise for the improvement of the country.

Estates at present let in farm to be re-settled on the expiration of the existing leases, and *zemindars* possessing a permanent property in the *mohauls* to have a preference.

Proviso limiting such leases to twelve years.

The above rules declared applicable to estates held *khas*. Rule of proceeding in cases where *zemindars*, &c. may refuse to maintain their engagements.

Proviso for the exclusion of persons who may have wilfully deteriorated their lands, &c.

In such cases, and in others where special circumstances require it, leases may be granted for fifteen years.

IV. The rules contained in the third and following sections of Regulation VII. 1822, with the modifications above provided for, and the necessary alteration of dates and periods are, and shall be held to be equally applicable to the conquered provinces and Bundelcund as to the ceded provinces; provided also that such part of clause third, Section 9. of that regulation as prescribes that engagements taken in the manner specified in that clause shall be restricted to the term of five years, shall not be held applicable to leases granted to farmers in the cases specified in the foregoing section, and that it shall be competent to the Board of Revenue, with the sanction of Government, to grant leases, either to proprietors or farmers, for any period not exceeding fifteen years, whenever special circumstances shall, in their judgment, render it expedient to do so, as well in the ceded as in the conquered provinces.

Rules contained in the third and following sections of Regulation VII. 1822, with the foregoing modifications, declared equally applicable to the conquered provinces and to Bundelcund.

Proviso limiting in certain cases the application of part of clause 3d, Section 9. of that regulation.

A. D. 1825. REGULATION IX.

A REGULATION *for extending the Operation of Regulation VII.* 1822; *for authorizing the Revenue Authorities to let in Farm Estates under temporary Leases, on the Default of the Malguzars, or to hold the same Khas for a Term of Years; for modifying and adding to the Rules contained in Regulation II.* 1819, *and for making certain other Amendments in the existing Regulations.*—PASSED *by the Governor General in Council, on the 5th May* 1825; *corresponding with the 24th Bysaak* 1232 *Bengal era; the 3d Jeyte* 1232 *Fusily; the 25th Bysaak* 1232 *Willaity; the 3d Jeyte* 1882 *Sumbut; and the 16th Ramzaan* 1242 *Higeree.*

Preamble.

WHEREAS the provisions of Regulation VII. 1822, are in force only within the ceded and conquered provinces, in the district of Cuttack, and in the *pergunnah* of Puttaspore and its dependencies: and whereas there are within the other provinces belonging to this presidency various *mohauls* and tracts for which a permanent settlement has not yet been concluded, and it appears to be advisable that the revenue authorities should be vested, in regard to such *mohauls* and tracts, with the same powers as belong to the like officers within the ceded and conquered provinces: and whereas the principle of the rules contained in the said regulation, relative to lands held free of assessment or at a *mocurreree jumma* under special grants, is equally applicable to such tenures in all parts of the country: and it appears to be likewise expedient to make provision for the occasional exercise by the revenue officers in the lower provinces, of the powers specified in the said regulation, for the summary trial of certain suits between individuals, subject as therein provided to an appeal to the *adawlut* by a regular suit: and whereas a frequent recourse to the sale of lands, for the recovery of arrears of revenue in districts of which the assessment has not been fixed in perpetuity, being inexpedient, it appears to be necessary and proper that the revenue authorities should be empowered to let in farm for a term of years the estates of defaulters under temporary leases, or to hold the same *khas* for the purpose of making a *ryotwar* settlement, where that measure may be deemed advisable: and whereas it has appeared to be expedient to modify and to add to the provisions contained in Regulation II. 1819: and whereas the rules prohibiting the collection of *sayer* duties, and the provision contained in Section 39, Regulation IX. 1810, having been considered applicable to several items of *sewaee* collections or cesses levied by the *malguzars* and others for local purposes, and according to ancient usage, which it would be injurious to abolish, it appears to be expedient to provide for the continuance of such collections when sanctioned by Government: the following rules have been enacted, to be in force from the date of their promulgation, within the provinces belonging to the presidency of Fort William.

The provisions contained in clause sixth, Section 2. and thirty three following sections of Regulation VII. 1822, extended to all lands not included within the limits of estates for which a permanent settlement has been concluded.

II. *First.* The provisions contained in clause sixth, Section 2. and in the thirty three following sections of Regulation VII. 1822, are hereby extended to all lands (including *jaghires*, *mocurreree*, and other tenures held free of assessment or at a quit rent under special grant) not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation VIII. 1793, and Regulations II. and XXII. 1795, as far as the same may be applicable.

Such provisions to be in force in all estates held under *khas* management.

Second. The said provisions shall likewise be in force in all estates, which may now or hereafter be held *khas*, during the period for which they may be so managed.

And to be held applicable to the Sunderbunds, the hill lands of Bhaugulpore, and generally to all forests and wastes not specified in the settlement account.

Third. The provisions aforesaid shall also apply to the Sunderbunds, the hill lands of Bhaugulpore, and other extensive forests and wastes, not included within the limits of *pergunnahs*, *mouzahs*, or other revenue divisions, specified at the time of settlement as belonging to the *mohauls* then assessed; as well as to all estates bordering on such forests or wastes.

The Governor General in Council may vest any collector, &c. with the several powers specified in Section 20, Regulation VII. 1822, within such limits as may be considered advisable.

III. It shall be competent to the Governor General in Council to vest any collector, or other officer exercising the powers of collector, within the provinces of Bengal, Behar, Orissa, and Benares, with the several powers specified in Section 20, Regulation VII. 1822, in the manner specified in the second clause of that section, within such local limits as may from time to time appear to be advisable: and the several provisions contained in Section 21, and the fourteen following sections, shall apply to the several *pergunnahs* or other local divisions so placed under the jurisdiction of the collector, or other officer aforesaid.

In such cases the several provisions contained in Section 21, &c. to be considered applicable.

Rule of proceeding, when an arrear of revenue on account of *mohauls* not permanently assessed may not be paid within one month after it becomes due, and objections appear to a public sale.

IV. Whenever an arrear of revenue shall accrue on account of any *mohaul*, for which an engagement may have been taken from the proprietors or persons recorded as proprietors, not being an estate of which the assessment has been fixed in perpetuity, and the *malguzars* shall fail to discharge the same within one month of the date on which it became due, then if there shall appear to be any objection to the sale of the estate, and the arrears cannot otherwise be recovered, (on which points the decision of the revenue authorities is to be held conclusive,) it shall be competent to the collector, or other officer exercising the powers of collector, with the sanction of the Board, and subject to the orders of Government, to annul the existing engagements with the *malguzars*, and to let the *mohaul* in farm for such period, not exceeding fifteen years, as the Governor General in Council may appoint, or to hold the *mohaul* under *khas* management for a like period. In such cases, if the *mohaul* shall yield a higher *jumma* than that for which the *malguzars* may have engaged, the excess shall in the first place be appropriated to the liquidation of the arrear due on account of it, or such portion thereof as the farmer may not have separately agreed to discharge or as may not otherwise have been recovered, and, out of any surplus remaining, the *malguzars* shall receive such *malikanah*, not being less than 5 per cent. nor more than 10 per cent. on the assessment of the last year of their engagement, as the Governor General in Council may direct.

Existing engagements may be annulled, and the *mohaul* let in farm.

If a higher *jumma* be obtained, the excess to be appropriated to the liquidation of the arrear, and to the payment of *malikanah* to the *malguzar*.

Rules in modification of certain sections of Regulation II. 1819.

V. *First.* The following rules are enacted in modification of Sections 5, 6, 8, 10, 11, 13, 15, 22, and 30. of Regulation II. 1819.

Collectors, &c. employed in making a settlement of lands, to issue a notification, and to require the appearance before him, of all persons holding lands free of assessment.

Second. Whenever a collector, or other officer exercising the powers of collector, shall visit or be about to visit any *mohaul*, for the purpose of making a settlement in the manner prescribed in Regulation VII. 1822, it shall be competent to him, by a notification to be stuck up in some conspicuous place within such *mohaul* and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment, or at a fixed *jumma* within or adjoining to the village or villages in which the lands of such *mohaul* or any part thereof may be situated, to appear before him either in person or by *vakeel* within a reasonable time, not being less than one month from the date of such notification, at such place within the *mohaul* as he may select for holding his office, and to attend him from day to day while he may continue within the *mohaul*, with all *sunnuds* or other writings in virtue of which they may possess the lands, or under which the lands may have been or may be claimed, to be held free of assessment or at a fixed *jumma*, together with any evidence they may desire to have taken in support of their claims.

Who are to continue their attendance from day to day, and to produce all *sunnuds* or other writings, under which they claim to hold the lands rent free or at a fixed *jumma*.

Third. It shall likewise be competent to collectors and other officers aforesaid, when engaged in the settlement of any *mohaul* under the rules of the regulation above mentioned, or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue, all lands, whether *malguzaree* or *lakheraj*, belonging or adjoining to the village or villages in which such *mohaul* or any part thereof may be situated.

Collectors, &c. engaged in the settlement of *mohauls*, empowered to have such lands measured without awaiting a previous reference to the Board of Revenue.

Fourth. When the collector or other officer aforesaid shall have commenced the settlement of any *mohaul*, in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed *jumma*, and to receive their *sunnuds* and other writings as aforesaid or any of them, the period fixed

Collectors, upon commencing the settlement of *mohauls*, to give public notice by an *ishtahar* one

in the notification for the attendance of such parties being arrived, he shall on the day preceding that on which he may intend to hold proceedings in the said cases or any of them, notify such intention by an *ishtahar* stuck up in his office, and in some place, open to the public, within the *mohaul*.

day previous to that on which it is intended to hold proceedings in any of the cases proposed to be investigated.

Fifth. If any person holding land free of assessment or at a fixed *jumma* as aforesaid, shall fail to attend either in person or by *vakeel* after notice being given in the manner above prescribed, the collector shall be competent to proceed *ex parte* to investigate the title of such party to hold the land in his possession free of assessment; and with the sanction of the Board of Revenue to resume the said lands, if they appear to be held on an invalid title. Nor shall any person defaulting as above, or neglecting to appear and give answer when required to do so in the manner prescribed in Regulation II. 1819, be entitled to stay the resumption and assessment of his lands, under the rule contained in the 22d section of that regulation. Provided further, that the rule contained in clause second Section 13, Regulation II. 1819, shall be and be held applicable to such persons, as well as to persons who may appear when summoned under the provisions of that regulation, or in the manner hereinbefore provided.

Collectors, &c. engaged in investigations, should persons fail to attend after due notice given them.

And with the sanction of the Board of Revenue, to resume such lands, if they appear to be held on an invalid title.

Defaulters neglecting to appear or to furnish the information required from them, not entitled to stay the resumption and assessment of their lands.

Sixth. It shall be competent to collectors and other officers making settlements as aforesaid, either to complete the investigation of the claims of persons holding land free of assessment or at a fixed *jumma*, under the rules of the fifteenth and following sections of Regulation II. 1819, with the modification hereinafter provided, during the progress of the settlement; or to limit their proceedings to the ascertainment of the land actually held under such tenures, and the record of the title deeds produced by the parties; postponing the further investigation of the case to a future period. When any collector or other officer may postpone the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held, or if circumstances prevent him from doing so, he shall before resuming the inquiry give the party one month's notice to attend: and on the failure of any party to attend when so warned, the collector or other officer aforesaid shall be competent to proceed to try the case *ex parte*, and with the sanction of the Board, to resume and assess the lands.

Proviso.

Collectors, &c. engaged in making settlements, may either complete the investigations of claims under the rules in force, or limit their proceedings to certain points.

When investigations are postponed, collectors to give the party due notice previous to resuming the inquiry.

And if the party should fail to attend, the case may be tried *ex parte*, and the collector may with the sanction of the Board of Revenue resume and assess the lands.

Seventh. Collectors or other officers who may proceed to investigate claims to *lakheraj* lands during the progress of a settlement, shall follow the rules of the fifteenth and following sections of Regulation II. 1819, in all cases wherein the parties may attend and deny the liability of their lands to assessment, subject to the modifications hereinafter provided.

Collectors, &c. in investigating claims to *lakheraj* lands to be guided by the provisions of Section 15, &c. Regulation II. 1819.

Eighth. No lands shall be resumed by a collector, even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue, save and except as hereinafter provided: but on such confession duly attested, which will of course supersede the necessity of any further inquiry, it shall be competent to the Board forthwith to direct the lands to be assessed, unless the same be held by village or *semindaree* servants in lieu of wages, which shall not be resumed without the sanction of Government. Provided also, in all cases wherein it may appear to the Board, that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their duty to submit a report of the circumstances to the Governor General in Council.

Collectors, &c. prohibited from resuming land, even though the parties acknowledge such lands to be liable to assessment, without the sanction of the Board of Revenue.

The Board in such cases to direct the assessment of the lands, unless they are held by servants in lieu of wages, which are not assessable without the sanction of Government.

Ninth. The provisions of clause first, Section 23, Section 25, and Section 28, Regulation VII. 1822, shall be applicable to cases investigated by collectors, under the rules of Regulation II. 1819, or under the provisions of this regulation.

Specific provisions of regulations, which the collectors are to consider applicable to cases investigated by them.

Tenth. It shall not be necessary to use stampt paper, for the proceedings held, or exhibits filed before the revenue authorities in cases originating with a collector, or other officer of Government, claiming to assess land held free of assessment. But the said authorities are authorized in the said case, as in all other cases wherein they may exercise judicial powers under the provisions of the existing regulations, to award to witnesses their reasonable charges, and to levy the same, as well as all costs adjudged by them, by the process in force for the recovery of arrears of Government revenue.

Stampt paper for proceedings in cases originating with a collector, declared to be unnecessary.

Witnesses to be awarded all reasonable charges, which as well as costs are to be levied by

Eleventh. Persons claiming to hold lands exempt from revenue shall, with their petitions of plaint, deliver to the collector or other officer to whom the same may be preferred, all *sunnuds* and other writings on which their claim may be founded; and shall insert in the

the process in force for the recovery of arrears of revenue.

Specification of documents and particulars to be submitted to the collector, by persons claiming to hold lands free of assessment.

Collector, in case the claim should involve only the interests of Government, to proceed in the investigation of it, giving eight days previous notice to the party.

But if the claim be against an individual singly or jointly with Government, the collector is to serve the party with a notice, containing a statement of the demand, and requiring his attendance with the necessary documents and evidence.

Defendant's answer to be given within seven days.

In such cases no further pleadings to be required, but collectors may receive and record such subsidiary proceedings as are calculated to elucidate the claims.

After the receipt of the defendant's answer, eight days notice to be given of the day on which it is proposed to bring it to a hearing.

Proviso in case an immediate decision shall be petitioned for.

Collectors, &c. if of opinion that any tract of land belongs to Government, and that no individual has *bond fide* possession thereof, to require by a notification the attendance before him of all claimants within a given period.

And on the appearance of such claimants, to proceed in the investigation of the claims in the mode prescribed by Regulation II. 1819.

Proviso in case no person has *bond fide* possession of the land.

Further proviso.

Power reserved to the Governor General in council to vest any collector, &c. deputed to hold a local inquiry within the limits of any *mahaul*, with the same powers and authority in regard to all lands held free of the said petition a full specification of the several particulars required to be registered by the rules in force, relative to the registry of rentfree tenures, and of the grounds on which their claim is founded. If the claim shall involve only the interests of Government, the collector shall proceed without delay to investigate the case, giving, however, eight days previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the civil courts. If the claim shall be against any individual singly or jointly with Government, the collector shall serve him with a notice containing a statement of the demand, and requiring his attendance in person or by *vakeel* duly authorized, within the period of one month, with any papers or evidence he may desire to produce in denial of the claim; and on the appearance of such defendant, the collector, after allowing him to inspect and examine the claimant's petition of plaint and the writings therein referred to, shall call upon him to deliver within the period of seven days a statement of the objections he may desire to urge against the claim. In such cases no other pleadings shall be required from the parties than a plaint and answer, but it shall and may be lawful for collectors to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim. Collectors shall proceed to investigate every such case as soon as possible after the answer of the defendant shall be received; giving however as aforesaid eight days previous notice to the parties, of the day on which he may propose to bring it to a hearing. Provided, that in cases wherein the parties concerned, or their authorized representatives, shall desire or consent (the same being signified in a written petition or *ikrarnamah* to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on behalf of Government or in the suit of an individual, and whether the proceedings of the collector shall be held under the provisions of Regulation II. 1819, or under those of this or any other regulation touching the matter, it shall be competent to the collector to proceed forthwith to the investigation and decision of the case without issuing any formal summons or notice.

Twelfth. Whenever a collector or other officer exercising the powers of collector, shall be of opinion, that any tract of land belongs to Government, and that no individual has *bond fide* possession thereof, it shall be competent to him, by a notification, to be stuck up in his *cutcherree*, in the *zillah* court, and in the *cutcherree* of the *canoongoe*, *moonsiff*, or *thanadar*, to whose jurisdiction the land in question may belong or adjoin, to require all claimants to the same to appear before him within a reasonable time to be fixed by the Board of Revenue, not being less than six weeks from the date of such notification; and on the appearance of such claimants, to proceed to investigate their claims in the manner prescribed by Regulation II. 1819, for investigations relative to the liability of lands to be assessed as herein modified. Provided further, that if the collector or other officer aforesaid shall decide that none of the claimants have *bond fide* possession of the lands in question, and his decision shall be affirmed by the Board of Revenue, the said lands shall be at the disposal of Government, until the same shall be adjudged to be private property by a decree of court on a regular suit. Provided also, that all such suits, if preferred by one of the claimants before the collector, shall be dismissed with costs unless instituted within six weeks of the date on which the Board may affirm the decision of that officer, and that the rule contained in clause second, Section 13, Regulation II. 1819, shall be strictly applied to such suits: nor shall any suit be admitted on the part of any person who may not have appeared before the collector pursuant to notice, unless he shall be able to show good and sufficient cause for his non-appearance, and shall apply for permission to sue within six weeks of his being informed of the Board's decision. Provided further, that if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.

VI. It shall be competent to the Governor General in Council, by an order in council, to vest any collector or other officer who may be deputed to hold a local inquiry within the limits of any *mahaul*, with the same powers and authority in regard to all lands held free of assessment within or adjoining to the village or villages, in which the lands of such *mahaul* or any part thereof may be situated, and for the investigation of all claims touching such lands as by the foregoing provisions are vested in collectors making settlements in the manner prescribed by Regulation VII. 1822: and also from time to time to depute collec-

tors or other officers aforesaid for the purpose of ascertaining, recording, or investigating the said claims in the manner above prescribed.

VII. The particulars of all lands held free of assessment within all villages and *mohauls* of which the settlement may be made under the provisions of Regulation VII. 1822, shall be fully recorded in the proceedings of the collector or other officer making the settlement.

VIII. Nothing contained in Regulation II. 1819, or in any other regulation in force, shall affect or be considered to affect the provisions contained in Section 10, Regulation XIX. 1793, Section 11, Regulation XXXI. 1803, and in the corresponding enactments applicable to Benares, and the conquered provinces, relative to grants illegally made subsequently to the dates specified in the said rules respectively: and in all cases, in which it shall be established, to the satisfaction of the revenue authorities, that any lands now held free of assessment, were subject to the payment of revenue at the dates aforesaid or subsequently thereto, and that they have not been thereafter exempted from the payment of revenue under the authority of the Governor General in Council, nor adjudged to be exempted from payment of revenue under a regular decree of court; it shall and may be lawful for the said authorities forthwith to resume and assess the said lands; save and except in cases wherein the revenue of the same may belong to a *zemindar*, *talookdar*, or other *malguzar*, with whom a permanent settlement has been concluded: nor shall the provisions of Section 22, Regulation II. 1819, apply to such cases.

IX. It is hereby declared and enacted, that the rules relative to the abolition of *sayer* duties, and the provision contained in Section 39, Regulation IX. 1810, are not and shall not be held to be applicable to any item of *sewaee* collections or cess levied by *malguzars* and others according to ancient custom, which has been or shall be sanctioned by a collector or other superior revenue authority, not being a tax on the transport, export, or import of goods or merchandise, or other tax or duty specifically prohibited: but after the settlement of any village or *mohaul* shall have been made in the manner specified in Section 9, Regulation VII. 1822, the rules and provisions aforesaid shall be applicable to all cesses and collections not sanctioned in the manner specified in that section.

assessment in all villages adjoining such *mohaul*.

All lands held free of assessment within villages and *mohauls*, of which the settlement may be made under Regulation VII. 1822, to be particularised and fully recorded on the proceedings of the collector, &c.

Nothing contained in Regulation II. 1819, &c. to be construed to affect specific enactments applicable to Benares and the conquered provinces, relative to illegal grants of land made subsequent to the dates specified in the rules respectively.

Lands now held free of assessment, that were formerly subject to the payment of revenue, and have not since become exempted by competent authority, may be resumed and assessed by the revenue authorities.

Exception in cases where the revenue may belong to a *zemindar*, &c. with whom a permanent settlement has been concluded.

The rules relative to the abolition of the *sayer* duties, and the provisions contained in Section 39, Regulation IX. 1810, declared inapplicable to any item of *sewaee* collections or cess levied by *malguzars*, &c.

After the settlement of any *mohaul* shall have been made, the rules adverted to shall be applicable to all cesses not sanctioned in the mode specified in Section 9, Regulation VII. 1822.

A. D. 1826. REGULATION II.

A REGULATION *to extend, with certain Exceptions and Conditions, the existing Settlement in the Provinces ceded by the Nawaub Vizier to the British Government, for a further Period of five Years.*—PASSED *by the Governor General in Council on the* 26*th April* 1826 ; *corresponding with the* 15*th Bysaak* 1233 *Bengal era ; the* 4*th Bysaak* 1233 *Fussily ; the* 16*th Bysaak* 1233 *Willaity ; the* 5*th Bysaak* 1883 *Sumbut ; and the* 18*th Ramzaan* 1241 *Higeree.*

Preamble.

WHEREAS the existing settlement in the provinces ceded by the Nawaub Vizier to the British Government, with the exception of certain districts and *mohauls*, will expire with the ensuing Fussily year 1234 : and whereas, with certain exceptions, it appears to be expedient to extend the said settlement for a further term, in cases in which the settlement has been formed with *zemindars* or other persons recorded as proprietors or possessors of a permanent interest in the *mohaul* for which they have engaged, or as the representatives of such persons: and whereas it appears also to be desirable, to provide for the continuance of the engagements of *zemindars* and other persons as aforesaid, subsequently to the expiration of the period specifically fixed for the same, until a careful revision of the settlement can be completed: and whereas it is desirable to make further provision for securing the improvement of the country ; the following rules have been enacted, to be in force throughout the British territories immediately subject to the government of the presidency of Fort William, from the date of their promulgation.

The existing settlement in the ceded provinces extended to a further period of five years.

II. *First.* The existing settlement in the ceded provinces, (with the exceptions, and subject to the provisions hereinafter stated,) shall be extended to a further period of five years, viz. for the years 1235 to 1239 Fussily, inclusive, in cases in which it may have been concluded with *zemindars*, *lumberdars*, or other persons recorded as the proprietors or possessors of a permanent interest in the *mohaul* for which they may have engaged, or as the representatives of such persons.

Zemindars, if unwilling to continue their engagements for a further period of five years, to notify the same to the collector within a certain period.

On failure, to be responsible for the payment of revenue for each of the five years.

Second. If any *zemindars* and other persons aforesaid, shall be unwilling to continue their engagements for a further period of five years, on the terms specified in this regulation, they shall notify the same to the collector, or other officer exercising the powers of the collector, to whom they may be subject, on or before the 31st July next, corresponding with the 12th Sawun 1233 of the Fussily era. And all *zemindars* and other persons aforesaid, who shall not make a notification to the effect, and within the period above-mentioned, shall be held and are hereby declared to be responsible for the payment of the same revenue for each of the five years subsequent to the settlement now in force, viz. for the years 1235 to 1239 inclusive, as may be specified in their engagements for the year 1234 Fussily. And in such cases, no alteration shall be made in the *jumma* demandable by Government on account of the *mohauls* held by such persons, (excepting as hereinafter excepted,) until the expiration of the said period of five years.

The foregoing rules not applicable to the districts

Third. The above rules shall not apply to the districts of Goruckpore and Azimghur, for which special provision was made by clause fourth, Section 2, Regulation VII. 1822, nor shall

of Goruckpore and Azimgahur, now to any engagements specifically entered into on account of any year or years subsequent to the settlement now in force.

shall they be held in any district to effect the terms of any engagements which may have been specifically entered into on account of any year or years subsequent to the general settlement now in force.

Power vested in collectors, to exclude from the operation of the foregoing rules, any *mohauls* of which a revised settlement may have been made, or be about to be made, under Regulation VII 1822.

Fourth. It shall be competent to collectors and other officers exercising the powers of collectors, subject to the orders of the Board of Revenue, to which they may be subordinate, to exclude from the operation of the preceding rules, any *mohaul* or *mohauls*, of which a revised settlement may have been made, or be about to be made, under the rules of Regulation VII. 1822, or in regard to which there may, in the judgment of these authorities, exist any special reasons for effecting an early re-settlement of the same; and in the case of *mohauls* of the last description, it shall be competent to the collectors, or other officers aforesaid, to make an immediate re-settlement of the same on the expiration of the existing leases; or to grant to the persons under engagements renewed leases for such further term (not exceeding five years) as the Board may direct. Provided however that in all cases, in which it may be determined to adopt special measures as above, in regard to any *mohaul* or *mohauls*, the collector, or other officer aforesaid, shall give notice of such determination in writing to the person under engagements for the same on or before the 1st March 1827 A *perwannah* delivered to, or left at the usual residence of the *malguzar*, or a notification stuck up, under orders of the collector, in any conspicuous place within the *mohaul*, shall be held to be sufficient notice for the above purpose.

Notice to be given by collectors on such occasions to the *malguzars*.

Zemindars and other persons who may be continued in their engagements for a further period of five years, shall be subject, after the expiration of the lease, to the payment of the same annual *jumma* as may be chargeable on account of the last year of their lease.

III. *Zemindars* and other persons, as aforesaid, whose engagements shall becontinued for a further period of five years, as above provided, as well as all other persons who may hereafter enter into engagements as proprietors, or as the representatives of proprietors, shall, after the expiration of the leases so extended or granted, hold the *mohauls* for which they may have engaged, or may hereafter engage; and shall continue to be subject to the payment of the same annual *jumma*, as may be chargeable on account of the last year of their lease, until the collecter, or other officer exercising the powers of collector, shall effect a detailed revision of the settlement in the mode prescribed by Regulation VII. 1822, or shall be otherwise specially authorized by Government to make a fresh assessment. Provided also, that no *zemindar* or other *malguzar*, as aforesaid, shall be liable to pay on account of any year, a higher *jumma* than that payable under the above rule, unless he shall have been apprized of the Board's approval of the new assessment on or before the month of Jeyte preceding. Nor shall any such *zemindar*, or other *malguzar*, be ousted from the management of any *mohaul* for which he may be under engagements, without such notice, except by due course of law, on a decision in favour of the title of another party claiming the property of the same.

Proviso.

What rules to be observed in the settlement of estates now let to farm, on the expiration of the existing leases.

Rules when *mohauls* may be let in farm.

The above rules to be applicable to estates now held *khas*.

IV. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases, for such a period as the Governor General in Council may direct: a preference shall be given to the *zemindars*, or other persons possessing a permanent property in the *mohauls*, if willing to engage for the payment of the public revenue on reasonable terms. Provided also, that in cases wherein such *mohauls* may be let in farm, the term of the lease granted to the farmers shall not, excepting as hereinafter excepted, exceed twelve years. The above rules shall likewise be applicable to estates now held *khas*; so in any case wherein the *zemindars* and other proprietors may refuse to continue their existing engagements on equitable terms, it shall be competent to the revenue authorities to let the lands in farm, for such period (with the restriction herein specified) as the Governor General in Council shall appoint, or to assume the direct management of them, and to retain them under *khas* management, during the period aforesaid, or such shorter period as may be judged proper. Provided also, that in cases wherein it shall appear, that the *zemindars* have wilfully reduced the cultivation of their lands, or otherwise deteriorated the *mohaul* under their management, or in their occupancy, it shall be competent to the revenue authorities to exclude persons so offending, and to let the lands in farm, for a period of fifteen years; leases for a like period may also be granted to *zemindars* and farmers, in cases where from special local circumstances, the measure may appear necessary, with a view to the reclaiming of waste, the construction of works requisite for the extension of cultivation, or otherwise for the improvement of the country.

Zemindars liable to be excluded for wilfully reducing the cultivation of their lands.

A. D. 1827. REGULATION V.

A REGULATION *for modifying the Rules at Present in Force for the Management of Estates under Attachment by Orders of the Courts of Justice in certain Cases.*—PASSED *by the Governor General in Council, on the 27th December* 1827, *corresponding with the* 13*th Poose* 1234 *Bengal era; the* 24*th Poose* 1235 *Fussily; the* 14*th Poose* 1235 *Willaity; the* 10*th Poose* 1884 *Sumbut; and the* 7*th Jummadee-us Sanee* 1243 *Higeree.*

Preamble.

WHEREAS it is expedient, in all cases of the attachment of landed property under orders of the courts of justice, that the management of the estate attached should be placed under the superintendence of the collectors of land revenue; the following rules have been enacted by the Governor General in Council, to be in force, from the date of their promulgation, throughout the territories immediately subject to the presidency of Fort William.

Modification of certain regulations regarding the management of estates under attachment.

II. The rules contained in Sections 5. and 6, Regulation V. 1799, and clauses fifth and sixth, Section 16, Regulation III. 1803, and Sections 26. and 27, Regulation V. 1812, and clause third, Section 5, Regulation VI. 1813, regarding the administration and management of estates under orders of the *sillah* and city courts, are hereby declared subject to the following modifications

Rules for the issue of precept for holding estates under attachment, and for appointing managers.

III. Whenever the *sillah* and city courts may deem it just and proper, under the provisions of the several regulations above-mentioned, to provide for the administration or management of landed property, the court shall issue a precept to the collector of land revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof. provided however, that if any person holding an interest in the estate, shall be dissatisfied with the selection made by the collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen, or order the collector to appoint another person, as, on consideration of the circumstances of the case, may appear reasonable and proper.

The precept shall specifically state the property to be included in the attachment.

IV. The precept of the *sillah* or city court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the court to that effect.

A. D. 1793. REGULATION XIV.

A REGULATION *for the Recovery of Arrears of the public Revenue assessed upon the Lands, from Zemindars, independent Talookdars, and other actual Proprietors of Land, and Farmers of Land holding Farms immediately of Government*—PASSED *by the Governor General in Council, on the 1st May* 1793; *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

TO ensure the punctual collection of the annual revenue payable to Government by the proprietors and farmers of land, it is essential that the collector should be armed with powers to enforce the discharge of it, without having recourse to the courts of justice, as the delay that must necessarily attend the institution of a law process for the recovery of every arrear, would encourage persons destitute of good faith to withhold the public dues, and render the collection of them a source of endless litigation. It is equally requisite upon general principles, that the collectors should exercise these powers at their own peril, that they may be deterred from abusing them for the purposes of exaction and oppression, whereby the improvement of landed property would be discouraged, and the value of it continue uncertain, and consequently depreciated. The collectors having in their possession the engagements of the proprietors and farmers of land, which specify the amount of the annual revenue that they have respectively agreed to pay, with the monthly proportions in which it is to be discharged, and also the rules defining the process by which they are to compel the payment of arrears, can never suffer from unjust prosecutions, so long as they are careful not to infringe those rules and engagements, as the courts of justice, at the same time that they will restrain them from abusing their power, will always support them in the due exercise of it, for enforcing payment of what they are authorized to demand on behalf of the estate. On the other hand, the proprietors and farmers of land will be able to prevent the powers delegated to the collectors of revenue, being exercised to their detriment, by performing punctually the engagements which they have voluntarily entered into with the public. Until they previously violate those engagements, the collector will have no authority to issue any process affecting either their persons, rights, or property; and if he exceeds or abuses the powers vested in him, they will be able to obtain redress for the injury which they may sustain, by prosecuting him in the court of justice. The Governor General in Council has accordingly enacted as follows.

What is to be considered an arrear of revenue.

II. If the whole, or a portion, of the *kist* or instalment payable in any month, by a proprietor or farmer of land, shall remain undischarged on the first of the following month, the sum so remaining unpaid is to be considered an arrear of revenue.

Payment of arrears of revenue to be demanded in writing.

By whom the writing is to be attested and what it is to contain; and by whom and how served upon the defaulter.

III. When a collector shall have occasion to require payment of an arrear of revenue, from any *zemindar*, independent *talookdar*, or other actual proprietor of land, or any farmer of land, he is to demand the discharge of it by a writing under his official seal, and attested by his signature, and that of his *dewan*, specifying the amount of the arrear, and the date on which it became due, and requiring it to be paid at the treasury of the collectorship, within a certain number of days after the day on which the writing may be served, in the manner herein

herein specified. In fixing the day for the payment of the arrear, the collector is to advert to the distance of his place of residence from the estate or farm of the defaulter, and allow a reasonable time for him to convey the money to the public treasury. The collector is to deliver the writing to a single *peon*, with directions to proceed either to the principal *cutcherree* of the defaulter, in the estate or farm on account of which the arrear may be due, or to the usual place of abode of the defaulter, if it be within the limits of his *zillah*, according as he may deem advisable. The defaulter, or his head officer in attendance in such *cutcherree*, is to grant, and the *peon* is to take, a receipt for the writing, specifying the date on which he may present it. The defaulter, or his officer above mentioned, is to pay to the *peon* two annas per day for his subsistence, (excepting in districts where custom has fixed the subsistence money of *peons* at a lower rate, in which case such lower rate, and no more, shall be exacted,) for the time allowed for delivering the writing, and returning to the collector. The name of the *peon* who may be deputed, the amount of his subsistence money, and the number of days for which he is to receive it, are to be endorsed on the writing. If the *peon* deputed to serve the demand for the arrears, shall not meet with, or be able to gain admittance to, the defaulter, or his head officer, by the evening of the day following the day on which he may arrive at his usual place of abode, or at his *cutcherree* above specified, or, if the defaulter, or his head officer, shall refuse or omit to give the receipt above required to the *peon*, immediately upon his presenting the writing, he is on the same evening to fix up the writing on the outer door or gate of such place or *cutcherree*, and return to the collector, to whom he is to report the date on which he may have fixed it up. Written demands for arrears so presented to a defaulter, or his head officer, or fixed up at his usual place of abode, or his *cutcherree* before mentioned, shall be considered to have been duly served upon him.

Cases in which collectors are authorized, and required, to cause defaulting proprietors and farmers of land to be confined.

IV. If any* zemindar, *independent* talookdar, *or other actual proprietor of land, or any farmer of land, shall omit to discharge the whole of an arrear of revenue, which may be demanded of him in the manner prescribed in Section 3, by the period limited in the writing, the collector, unless the defaulter shall have fallen in arrear, so as not to have paid a third part of the instalment of any one month, by the fifteenth of the ensuing month, is authorized either to cause him to be confined or not, as from circumstances may appear to him advisable. But if any proprietor, or farmer of land, shall not have discharged a third of the instalment of any one month, by the fifteenth of the ensuing month, and, after having been served with the written demand specified in Section 3, for the whole arrear, shall omit to pay the amount of it within the time prescribed in the writing; or, if any proprietor or farmer of land shall have fallen in arrears, to the amount of two thirds of the* kist *of any one month, and the collector, previous to the fifteenth of the ensuing month, shall have demanded the discharge of the arrears in the mode prescribed in Section 3, and fixed any day, subsequent to the fifteenth of the last mentioned month, for the payment of it, and the defaulter shall omit to discharge the whole amount by the prescribed period, the collector is positively enjoined to cause the defaulter to be imprisoned. The collectors are prohibited taking any proprietor or farmer of land into custody, and causing him to be confined for an arrear of revenue, until the defaulter has been served with the written demand for the arrear, as directed in this section, and he shall have failed to pay the amount by the limited period, under pain of being prosecuted by the defaulter in the* dewanny adawlut, *or court of civil judicature of the* zillah, *for false imprisonment, and paying such damages as the court may award against him.*

Collectors confining defaulters, without observing the rule herein specified, liable to be prosecuted for false imprisonment.

Process to be observed by collectors in confining defaulters.

V. When a collector shall proceed under Section 4, to the confinement of a *zemindar*, independent *talookdar*, or other actual proprietor of land, or farmer of land, for the recovery of arrears, he shall depute two *peons*, but no greater number than two, with a writing under his official seal, and attested with his signature, and that of his *dewan*, specifying the amount of the arrear due from the defaulter, and the date on which it became payable, and requiring him to deliver himself into the custody of the *peons*, that they may convey him to the jail of the *dewanny adawlut* of the *zillah*. The *peons* are to carry the defaulter direct to the jail. Immediately upon the arrival of the defaulter at the jail, the collector is to apply to the court, by motion in writing to be made in open court, if the court shall be sitting, through the pleader of Government, for the confinement of the defaulter. If the court shall not be sitting, the motion

Defaulter to be conveyed to the *dewanny adawlut* jail.

Motion in writing to be made to the court for his confinement.

* Superseded by Sect. 3, Regulation III. 1794, and Sect. 23, Regulation VII. 1799.

is to be presented to the judge out the court. The motion is to specify the amount of the arrear due from the defaulter, and the date on which it became payable. Upon receipt of the motion, the judge is immediately to order the defaulter to be confined in the jail of the *dewanny adawlut*, and detain him there, until he shall have discharged the arrear for which he may have been taken into custody, and all subsequent arrears that may become due during his confinement, or until the collector shall apply to the court, by motion made as above directed, to have him released. *Peons* deputed to take defaulting proprietors or farmers of land into custody under this section, are to receive from the defaulter, two annas per day each for their subsistence, (excepting in districts where custom has fixed the subsistence money of *peons* at a lower rate, in which case such lower rate, and no more, shall be exacted,) for the time allowed for taking him into custody, and conveying him to jail. The names of the *peons* who may be deputed, the amount of the subsistence money, and the number of days for which they are to receive it, are to be endorsed on the writing. If the defaulter shall not reside, or be, within the limits of the *zillah* wherein the lands on account of which the arrear shall be due may be situated, the collector is to order the two *peons*, whom he may charge with the writing, to proceed direct to the collector of the *zillah* in which the defaulter may be or reside, and such collector shall immediately send with them a *peon*, to point out the place of residence of the defaulter. The two *peons* shall take the defaulter into custody, and convey him to the jail of the *dewanny adawlut* of the *zillah* in which they may so apprehend him. The collector who may issue the writing, shall forward to the *vakeel* of Government in such *zillah*, the prescribed motion for the confinement of the defaulter, so that he may have it ready to present to the judge, immediately upon the arrival of the defaulter at the jail. The collector is to be careful likewise to specify in the writing for taking the defaulter into custody, the name of the *zillah* to the jail of which he is to be conducted. With the above exceptions as to the mode of serving the process, and the jail in which the defaulter is directed to be confined, all the other rules contained in this regulation regarding his case, are to be considered equally applicable to it, as if he had been imprisoned in the jail of the *zillah* wherein the lands on account of which the arrear shall be due may be situated. All suits or complaints which the defaulter may have to prefer against the collector, or his officers, or the *ameen* who may be deputed to take charge of his lands, are accordingly to be lodged in the *dewanny adawlut* of the last mentioned *zillah*, and the judge of the *zillah*, in the jail of which the defaulter may be confined, is to give effect to all decrees, or orders, which may be transmitted to him by the judge of the *zillah* in which the suits or complaints of the defaulter may be so preferred.

What the motion is to contain.

Judge to confine the defaulter.

Subsistence money to be paid to the peons.

VI. When a collector shall proceed to confine a *zemindar*, independent *talookdar*, or other actual proprietor of land, or farmer of land, under Section 4, he is to depute an *ameen*, with a proper establishment of officers, to collect the rents and revenues from the estate or farm of the defaulter. The collector is to transmit the establishment to the Board of Revenue, who are to submit it to the Governor General in Council, with a recommendation that it be confirmed, or altered, as may appear to them advisable. The expence of the establishment of the *ameen* when approved, and all other charges attending his deputation which may be admitted, shall be defrayed by the defaulter, and disbursed from the collections made from his estate or farm. The *dewan*, or head native officer of the defaulter, or any other person whom he may think proper to appoint, is to keep a counterpart of the accounts of the receipts and disbursements of the *ameen*. The *ameen* is to collect according to the engagements that may subsist between the defaulter and his dependant *talookdars*, under farmers, and *ryots*, and shall not make any alterations whatever in such engagements, or exact more than the amount specified in them, whether they be conformable to Regulation XLIV. 1793, or not. The *ameen* shall be liable to a prosecution in the court of *dewanny adawlut* of the *zillah*, for any alteration or infringement of such engagements, in opposition to this section. In cases in which no engagements may exist between the defaulter and his dependant *talookdars*, or *ryots*, the *ameen* is to collect from them according to the established rates and usages of the *purgunnah*. The *ameen* shall likewise be subject to a prosecution by the proprietor of the estate, or the farmer, for embezzlement, or injuries done to the estate, or farm, during the time that the collection of the rents and revenues of it may be entrusted to him. If the estate or farm of the defaulter shall be too inconsiderable to admit of its being charged with the expence of the

Precautions to be taken for the security of the revenue, upon the confinement of a proprietor or farmer of land.

Counterpart of the accounts of the *ameen* to be kept by a person on the part of the defaulter.

Ameen to collect according to the engagements of the defaulter with his dependant *talookdars* or *ryots*, under pain of being prosecuted for the infringement of them.

How the *ameen* is to collect, where no such engagements subsist.

Ameen liable to be prosecuted for embezzlement, or injuries done to the estate or farm.

Small estates to be committed to the charge of the

nearest *tehsildar*, or other native revenue officer.

the appointment of an *ameen*, it shall be committed to the nearest *tehsildar*, or other officer, employed under the collector in the business of the collections, who shall perform the duties above prescribed to the *ameen*, and under the same restrictions and penalties.

Cases in which defaulters are to be charged with interest on arrears.

VII. To prevent proprietors or farmers of land withholding the payment of the public revenue, to derive the benefit of the use of the money, or otherwise applying it to their private purposes, the Board of Revenue are empowered, in every case in which it shall appear to them that a *zemindar*, independent *talookdar*, or other actual proprietor of land, or farmer of land, has wantonly, or without sufficient cause established to their satisfaction, withheld the payment of the public dues, to charge the defaulter with interest on the arrear, at the rate of twelve per cent. per annum, from the period at which it may become payable, until the date on which it may be discharged. The order of the Board of Revenue to the collector to levy the interest, shall be a sufficient authority to him to enforce the payment of it, by the process to which he is empowered to have recourse, for compelling the discharge of arrears of the stipulated public revenue. But the Board of Revenue are not to order the collector to exact the interest, until they have submitted the circumstances of the case to the Governor General in Council, and received his sanction for the demand of it.

Cases in which the collector is directed to suspend the exercise of the powers vested in him by Section 4.

VIII. If the crops in any estate, or farm, shall have been damaged or destroyed by drought, inundation, or other calamity of season, or from any cause not originating in the neglect, mismanagement, or misconduct, of the proprietor or farmer; and such proprietor or farmer shall fall in arrears so as to subject himself to be confined under Section 4, and the collector shall be satisfied from the best information which he may be able to obtain, that the defaulter is unable to make good the arrears by the period limited in the written demand for the payment of them, required to be issued under Section 3, either from the collections on account of such year from his estate or farm, or from his private funds, or property, or by a loan; he is directed to suspend the exercise of the powers vested in him in the first mentioned section for the confinement of the defaulter. But the collector is immediately to report the circumstances of the case to the Board of Revenue, with his reasons for not proceeding against the defaulter as required in that section.

Collectors not to confine proprietors of land, who deny the whole of the arrear demanded, and give security to bring the demand before the dewanny adawlut, and to pay the amount that may be decreed against them with costs.

IX. If a collector shall demand a sum of money on account of arrears of public revenue, from a* zemindar, *independent* talookdar, *or other actual proprietor of land, under Section* 3, *and the proprietor shall deny, by a writing addressed to the collector, that any part of the arrears claimed is due from him, and within the time limited in the written demand for the payment of the arrears, shall tender good security to the collector, to institute a suit against him in the court of* dewanny adawlut *of the* zillah, *within ten days commencing from the date of the deed of security, or, if the court shall be shut, and shall not be opened until after the expiration of such ten days, within three days calculating from the day on which it may be opened, to try the justness of the demand, and to pay the amount of the arrear that may be finally adjudged to be due from him, with interest at the rate of twelve per cent. per annum, from the date on which the arrear became due, to the date of the decree, with all costs of suit, the collector is not to issue any further process against him on account of the demand. If such proprietor, however, shall omit to institute the suit within the time stipulated, or to pay the arrear, the collector is to demand in writing from the surety, the immediate discharge of the arrear, with interest at the rate of twelve per cent. per annum, from the date on which it became due, to the day of payment; and in the event of it not being forthwith discharged by the surety or the defaulter, he is to proceed against both of them, in the manner in which he is enjoined in Sections* 4 *and* 5, *to proceed against defaulting proprietors of land, who shall not have discharged a third part of the instalment of any one month, by the fifteenth of the following month; and the surety shall be kept in confinement, until the arrear, with the interest upon it at the abovementioned rate, from the date on which it may become due, to the day on which it may be paid, shall be discharged by him or the defaulter, or be made good by the sale of their property.*

Collectors to confine such proprietors, if they omit to institute the suit within the time limited.

The rules in the preceding sections, applied to cases in which proprietors of land

X. If a collector shall demand from any actual proprietor of land, a sum of money on account of arrears of public revenue, in the mode prescribed in Section 3, *and the pro-*

* Sect. 9. to 11, rescinded by Sect. 11, Regulation III. 1794.

prietor shall acknowledge a part of the demand to be due, but deny, by a writing addressed to the collector, the justness of the remainder, and pay the part which he may admit to be due, within the time limited in the written demand for the discharge of the whole arrear claimed, and give the security required in Section 9, from proprietors of land denying the justness of any part of an arrear demanded of them, the collector is not to issue any further process against him, on account of the part of the arrear so denied. If such proprietor, however, shall not pay the part of the demand admitted by him within the time prescribed, or if he shall duly pay such part, but omit to institute the suit within the stipulated period, or to discharge the whole of the demand, the collector is to require in writing from the surety, the immediate payment of the arrear, with interest at the rate of twelve per cent. per annum, from the date on which it became due, to the day of payment; and in the event of the amount not being forthwith discharged by the surety or the defaulter, he is to proceed against both of them, in the manner in which he is enjoined in Sections 4 and 5, to proceed against defaulting proprietors, who shall not have discharged a third part of the instalment of any one month, by the fifteenth of the following month; and the surety shall be kept in confinement, until the arrear, with the interest upon it, from the date on which it became due, to the day on which it may be paid, shall be discharged by him or the defaulter, or be made good by the sale of their property.

shall admit, and pay part of a demand, but object to the remainder.

XI. If a collector shall take a proprietor of land into custody, or convey him to jail, for arrears of public revenue, under Section 4, and it shall be proved to the satisfaction of the judge of the dewanny adawlut *of the* sillah, *that the proprietor denied the justness of the whole or a part of the demand, and offered the security required in such cases in Sections 9 and 10, and, if he admitted a part of the demand, paid, or actually tendered such part, within the limited time, and that the collector omitted or refused to accept the security or payment; the judge, after taking the required security, and in case of a part of the demand being admitted, receiving payment of such part in deposit, is to release such proprietor, who shall be at liberty to prosecute the collector in the* dewanny adawlut *of the* sillah *for false imprisonment. The courts are to pay the sums which they may receive in deposit under this section, to the collector of the revenue of the* sillah *wherein the lands of the proprietor, on account of which the arrear may have been demanded, may be situated.*

Collector liable to prosecution, if he shall confine a proprietor of land, in opposition to Sections 9 and 10.

Judge to discharge the persons so confined, upon their executing the engagements, and performing the other acts therein required.

XII. Every proprietor or farmer of land, who may be in confinement for arrears of revenue, that may not have been adjudged to be due from him by a judicial decree, and who may deem the demand not warranted by his engagements with Government, is permitted to prosecute the collector by whom he may have been imprisoned, in the *dewanny adawlut* of the *sillah* wherein the lands on account of which the arrears shall be claimed may be situated, to try the justness of the demand. If no part of the arrear claimed shall be found to be due from him, the judge shall release him, and decree such costs and damages against the collector, as he may deem equitable, upon a consideration of the circumstances of the case. If only a part of the demand shall appear due, the court is to discharge the prisoner upon his paying such part. In both cases, however, the court, previous to releasing such person, shall take good security from him to perform the final decision in appeal, in the event of the cause being appealed by the collector, in consequence of orders from the Board of Revenue, or without their orders. If the collector shall represent to the court, that an appeal will not be preferred from the decision, or if an appeal shall not be lodged within the time limited for preferring appeals to the provincial courts of appeal, the judge shall release the person so confined, without taking such security. But no collector shall be liable to the payment of any damages, for causing proprietors of land or their sureties to be confined under Sections 9, 10, or 11, in consequence of their not instituting the suit conformably to their engagement, or performing the other conditions to which they may have agreed, as therein specified, although it should be determined upon trial, that no part of the arrear which was to constitute the subject of the suit, was due.

Persons confined by the collector for arrears, at liberty to institute a suit against him, to try the justness of the demand.

XIII. At the expiration of the year, if an arrear shall remain due from any* zemindar, *independent* talookdar, *or other actual proprietor of land who may not be in confinement, the collector is to communicate the amount to the Board of Revenue, who are to*

Lands of proprietors in arrear at the end of the year, to be sold to make good the amount.

* This section is rescinded by Clause 1st, Sect. 2, Regulation XI. 1822.

Lands of proprietors, not to be sold for demands of revenue which may be under trial in the courts of justice, until the cause is finally decided.

Lands not to be sold for arrears, without the sanction of the Governor General in Council.

Proprietors or farmers of land denying the whole or part of a demand, but paying the whole to prevent any steps being taken against them by the collector, to be at liberty to prosecute him for the excess exacted.

report it to the Governor General in Council, and recommend the sale of such a portion of the estate of the defaulter, as may be sufficient for the liquidation of the amount. If, however, an arrear of revenue shall be stated to be outstanding against any actual proprietor of land, and he shall have given the security required, and instituted a suit under Section 9, 10, *or* 11, *to try the justness of the arrear demanded of him, his lands shall not be liable to sale for the arrears so claimed, until a final decision shall be passed in the cause. Lands are not to be sold for the discharge of arrears of revenue in any case whatever, without the sanction of the Governor General in Council.*

XIV. If a collector shall demand a sum of money on account of arrears of revenue from a* zemindar, *independent* talookdar, *or other actual proprietor of land, or any farmer of land, and such proprietor or farmer of land shall deny the justness of the whole or a part of the demand in a writing to that effect addressed to the collector, but to prevent any further process whatever being issued against him by the collector on account of the demand, shall discharge the whole of it, such proprietor or farmer of land shall be at liberty to prosecute the collector in the* dewanny adawlut *of the* zillah *for the recovery of the sum which he may consider to have been unjustly exacted from him; and if it shall appear to the judge that neither the whole nor any part of the demand was due, he shall decree the whole of the sum so paid, or such part of it as may not be proved to have been due, to be refunded from the treasury of the* zillah.

Collector how to proceed, when a proprietor of land refuses to obey, or resists the process issued by him under Section 5, or escapes from the *peons*, or prevents the process being served upon him.

Judge upon the charge appearing to him well founded,

to issue a publication requiring the defaulter to deliver himself up to the court in four weeks.

In what language the publication is to be written, and where and when it is to be fixed up.

XV. If a collector shall issue the process prescribed in Section 5, against any *zemindar*, independent *talookdar*, or other actual proprietor of land, to convey him to jail on account of arrears of the public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the *peons* deputed by the collector to convey him to jail, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that the process cannot be served upon him, the collector who may issue the writing, is immediately to represent the circumstances, through the *vakeel* of Government, to the *dewanny adawlut* of the *zillah* wherein the lands on account of which the arrears shall be due may be situated; and, upon the *peons* deputed to execute the process, or any two or more credible persons, making oath to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind, from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, shall require the defaulter, by a publication in writing, to deliver himself into the custody of the court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Persian and Bengal languages, if the estate of the defaulter shall be in Bengal or Orissa; or, in the Persian language, and the Hindoostanee language and Nagree character, if it should be situated in Behar; and shall be fixed up, as early after the date of it as may be practicable, at his usual place of abode, or the principal *cutcherree* in the estate on account of which the arrears may be due, in the office of collector, and the court-room of the *dewanny adawlut* of the *zillah*. The collector is to continue the *ameen* directed to be deputed by Section 6, to collect the rents and revenues of the estate of the defaulter, in the same manner as if the process issued under Section 5, had been duly served, and obeyed by him.

Ameen to be continued in the same manner as if the process had been duly served.

Decree to be passed by the *zillah* court, in the event of the defaulter not surrendering himself within the limited period, or of his delivering himself up within the time, and the charge being proved against him.

Court to transmit the decree and proceedings to the Governor General in Council, if the defaulter should not appeal within the prescribed time.

XVI. If the defaulter shall not surrender himself, before the expiration of the period limited in the publication, directed to be made in Section 15, or, if he shall deliver himself up within the prescribed time, and, after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, and that which the collector may adduce in support of his representation, if it shall be proved to the satisfaction of the court, that the defaulter is guilty of the charge, the court is to decree the proprietary right of the defaulter, and his heirs, in the estate on account of which the arrears may be due, forfeited to Government. If the defaulter shall not appeal from the decree to the provincial court of appeal, within the time limited for preferring appeals to that court, in Section 12, Regulation V. 1793, the court is immediately to transmit to the Governor General in Council, a copy of the decree, and of all the proceedings respecting the charge. If the defaulter shall appeal to the

* This section is rescinded by Sect. 11, Reg. III. 1794.

provincial court of appeal within the prescribed period, and the court should confirm the decision of the *zillah* court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or, if it be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring appeals to that court in Section 10, Regulation VI. 1793, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the proceedings and decree of the *zillah* court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court of appeal, and the Sudder Dewanny Adawlut should confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process prescribed in Section 5, had been duly served upon him, and he had obeyed it; and the collector is immediately to obtain from the court, a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it, or not, as may appear to them proper. If the Board shall order an appeal to be preferred, and it shall be lodged within the limited time, and the provincial court should reverse the decision of the *zillah* court, and adjudge the proprietary right in the estate forfeited, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and an appeal should not be preferred within the limited time, the provincial court is immediately to forward a copy of their proceedings and decree in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge proved, and the decision shall be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and proceedings of the *zillah* court, and provincial court of appeal, with a letter stating his objections to the decree of the latter court, to the Board of Revenue, who are to order him to appeal the cause to the Sudder Dewanny Adawlut, (provided the cause shall be appealable,) or not, as they may think proper. If the cause shall be appealed, and the appeal shall be received in the Sudder Dewanny Adawlut, and the court should reverse the decision of the provincial court, and declare the proprietary right in the estate forfeited, the court is immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the provincial courts of appeal under this section, an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last mentioned court, unless the annual produce of the estate of the defaulter on account of which the arrears may have been demanded, calculating according to the amount paid, or payable, by the dependant *talookdars*, under farmers, and *ryots*, to the defaulter, on account of the year in which the decision of the *zillah* court may be passed, shall exceed one thousand sicca rupees; and the collectors are enjoined to insert generally, in the representation which they are directed to make to the *dewanny adawlut* of the *zillah* in Section 15, whether the produce of the estate on account of the year above mentioned, according to the best information they may have been able to obtain, exceeds or falls short of, one thousand sicca rupees, but without specifying the actual amount of the produce. If the defaulter shall not deliver himself up within the prescribed time, or if he shall surrender himself by the limited period, and the collector shall have stated the produce of the estate to be under one thousand sicca rupees, and the defaulter shall not deny the truth of the collector's statement in his answer to the charge, and the cause should be afterwards brought before the provincial court of appeal, an appeal shall not lie from the decision of that court to the Sudder Dewanny Adawlut. If the collector shall represent, that the produce of the estate for the year before mentioned, exceeds or falls short of one thousand sicca rupees, and the defaulter should appear within the limited time, and in his answer to the charge object to the statement, the judge is to try the objections, and pass such decision upon them as may appear to him equitable. If the cause should be afterwards brought before the provincial court of appeal, and no objection be offered by either party to the decision of the *zillah* court, on the collector's statement of the produce of the estate, it is to be held accurate. If objections should be offered, the provincial court is to try the objections, and pass such decision upon them as may appear to it equitable. If an appeal from the decree of the provincial court should be presented to the Sudder Dewanny Adawlut,

If the defaulter should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the defaulter not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed in case the suit should be appealed to them, and they should confirm the decision of the provincial court.

Collector how to proceed, if the *zillah* court should adjudge the charge not proved.

Rule for cases in which the provincial courts of appeal may reverse such decisions of the *zillah* courts.

Collector how to proceed, if the charge should be adjudged proved in the *zillah* court, and the provincial court of appeal shall reverse the decision.

Rule for determining from what decrees of the provincial courts of appeal passed under this section an appeal is to lie to the Sudder Dewanny Adawlut.

Adawlut, and the admission or rejection of the appeal should depend upon the produce of the estate, for the year before mentioned, exceeding or falling short of one thousand sicca rupees, the court of Sudder Dewanny Adawlut is to examine the decisions passed by the *dewanny adawlut* of the *zillah*, and the provincial court of appeal, respecting the produce of the estate, and either adjudge the cause to be appealable or not, as may appear to them equitable. Decrees that may be passed under this section by the *dewanny adawlut* of any *zillah*, or any provincial court of appeal, or the Sudder Dewanny Adawlut, adjudging the proprietary right in the estate of a defaulter to be forfeited to Government, shall not be carried into execution in any case whatever, without an order from the Governor General in Council confirming the decree, and directing in what manner the proprietary right in the estate shall be disposed of.

Decrees passed under this section not to be carried into execution without the sanction of the Governor General in Council.

If the estate is decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine, within four weeks after he may receive the decree.

If the forfeiture is commuted for a fine, by what court and how it is to be levied.

It shall be at the option of the Governor General in Council, within four weeks after the receipt of a decree adjudging the proprietary right of any defaulter in an estate forfeited, either to order the decree to be executed, or to commute the forfeiture for such fine, as upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture for a fine, the court which shall have transmitted the decree and proceedings to the Governor General in Council, upon receiving notice of the fine that he may impose, are to levy the amount of it by the same process by which they are directed to enforce decrees of the court, and to pay the amount to the collector of the *zillah*. But if the Governor General in Council shall not, within four weeks after the decree shall have been received by him, either order it to be executed, or commute the forfeiture for a fine, the decree is to stand good against the defaulter. The process which a collector may institute against a defaulter, in the court of *dewanny adawlut* of the *zillah*, under this section, as well as the prosecution or defence of any appeal from the decision of such court, which may be preferred to the provincial court of appeal, or from the decree of the provincial court to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, is to be carried on at the public expence, and to be conducted by the *vakeel* of Government, whom the collector is to furnish with the necessary instructions.

Decree of forfeiture to be final, if not ordered to be executed, or commuted for a fine, within the time above mentioned.

Process and appeals instituted under this section, to be conducted by the *vakeel* of Government on the part of the collector, and to be carried on at the public expence.

XVII. If the defaulter mentioned in Section 16, shall be allowed to retain the proprietary right in his estate, Government is to account to him for the amount received through the *ameen*; and if it shall exceed the public revenue that was due from the estate, the expences attending the deputation of the *ameen*, and the fine which may be imposed upon the defaulter, the overplus is to be returned to him. If the sum received through the *ameen* shall be inadequate to the payment of the several demands above mentioned, and the defaulter shall not make good the deficiency, a portion of his lands is to be sold for the discharge of it.

Proceeds of the estate of the defaulter whilst attached, to be accounted for to him, if the forfeiture should be commuted for a fine.

Portion of the defaulter's estate to be sold, if the proceeds should not be adequate to answer all demands against him, and he should not discharge them.

XVIII. If the decree adjudging the proprietary right in the estate of the defaulter forfeited, shall be confirmed under Section 16, it shall be at the option of the Governor General in Council, either to confer such right upon the heirs of the defaulter, on their agreeing to make good all sums whatever that may be due to Government from the defaulter on account of the estate, and to pay the fixed revenue assessed upon it; or to dispose of it at public sale, subject to the payment of such revenue. If the estate shall be conferred upon the heirs of the defaulter, he is to be immediately released, if he should be in confinement. If the estate shall be disposed of at public sale, the proceeds of the sale are to be appropriated towards the discharge of the demands of Government, either on account of the public revenue, the expence attending the deputation of the *ameen*, or other charges incurred in consequence of the default of the former proprietor. If no such demand shall be outstanding at the time of the sale, or if any such demand should be due, and the proceeds shall exceed the amount of it, the whole of the proceeds in the first mentioned case, and the overplus in the second, is to be carried to the public account, or applied in any other manner that the Governor General in Council may direct.

If the forfeiture should be confirmed, the Governor General in Council to confer the estate on the heirs of the defaulter, or dispose of it at public sale.

Collector how to proceed when a farmer refuses to obey, or resists the process issued by him under Section 5, or escapes from the *peons*, or prevents the process being served upon him.

XIX. If a collector shall issue the process prescribed in Section 5, against any farmer of land, to convey him to jail on account of arrears of public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the *peons* deputed by the collector to convey him to jail, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that the process cannot be served upon him, the collector who may issue the writing, shall immediately

represent the circumstances, through the *vakeel* of Government, to the *dewanny adawlut* of the *zillah* wherein the lands on account of which the arrears shall be due may be situated, and, upon the *peons* deputed to execute the process, or any two or more credible persons, making oath to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, is to require the defaulter, by a publication in writing, to deliver himself into the custody of the court, within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Persian and Bengal languages, if the farm of the defaulter shall be in Bengal or Orissa, or in the Persian language, and the Hindoostanee language and Nagree character, if it be situated in Behar; and shall be fixed up, as early after the date of it as may be practicable, at his usual place of abode, if it be within the limits of the *zillah*, or the principal *cutcherree* in the farm, and in the office of the collector, and the court-room of the *dewanny adawlut*. The collector is to continue the *ameen* directed to be deputed in Section 6, to collect the rents and revenues of the farm of the defaulter, in the same manner as if the process issued under Section 5, had been duly served, and obeyed by him. If the defaulter shall not surrender himself before the expiration of the period limited in the publication, or, if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge, and the evidence that he may have to produce in his defence, and that which the collector may adduce in support of his representation, if it shall be proved to the satisfaction of the court, that the defaulter is guilty of the charge, the court shall decree the lease of the farmer annulled from the expiration of the Bengal, Fussily, or Willaity year, (according as the farm may be situated in Bengal, Behar, or Orissa,) in which the decree may be passed. If the defaulter shall not appeal to the provincial court of appeal, within the time limited for preferring appeals to that court, in Section 12, Regulation V. 1793, the court is immediately to transmit to the Governor General in Council a copy of the decree, and of all the proceedings respecting the charge. If the defaulter shall appeal to the provincial court of appeal within the prescribed time, and that court shall confirm the decision of the *zillah* court, or if the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring appeals to that court, in Section 10, Regulation VI. 1793, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court of appeal, and the Sudder Dewanny Adawlut shall confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process in Section 5, had been duly served upon him, and he had obeyed it, and the collector is immediately to obtain from the court, a copy of the decree and proceedings, and transmit them with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it, or not, as may appear to them proper. If the Board shall order an appeal to be preferred, and it shall be lodged within the limited time, and the provincial court should reverse the decision of the *zillah* court, and adjudge the lease annulled, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or, if it shall be appealable, and an appeal shall not be preferred within the limited time, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge proved, and the decision shall be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and proceedings of the *zillah* court, and the provincial court of appeal, with a letter stating his objections to the decree of the latter court, to the Board of Revenue, who are to order him to appeal the cause to the Sudder Dewanny Adawlut, (provided the cause shall be appealable,) or not, as they may think proper. If the cause shall be appealed, and the appeal shall be received in the Sudder Dewanny Adawlut, and that court should reverse the decision of the provincial

Judge upon the charges appearing to him well founded,

to issue a publication, requiring the defaulter to deliver himself up to the court in four weeks.

In what language the publication is to be written, and where and when it is to be fixed up.

Ameen directed to be deputed in Section 6, to be continued.

Decree to be passed by the *zillah* court, in the event of the defaulter not surrendering himself within the limited period, or of his delivering himself up within the time, and the charge being proved against him.

Court to transmit the decree and proceedings to the Governor General in Council, if the defaulter should not appeal within the prescribed time.

If the defaulter should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the defaulter not appealing in time to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed, in case the suit should be appealed to them, and they should confirm the decision of the provincial court.

Collector how to proceed, if the *zillah* court should adjudge the charge not proved.

Rules for cases in which the provincial courts of appeal may reverse such decisions of the *zillah* courts.

Rules for cases in which the charge may be adjudged proved in the *zillah* court, and the provincial court of appeal shall reverse the decision.

vincial court, and adjudge the lease annulled, the court are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained, from what decrees passed by the provincial courts of appeal under this section, an appeal shall be admitted to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last mentioned court, unless the *jumma* paid or payable to Government by the defaulter, on account of the year in which the decree of the *sillah* court may be passed, shall exceed one thousand sicca rupees; and the collector is enjoined to state generally, in the representation which he is above directed to make to the *sillah* court, whether the *jumma* paid or payable by the defaulter in such year, exceeds, or is less than one thousand sicca rupees, but without specifying the exact amount of it; and the rules prescribed in Section 16, regarding objections that may be offered to the statement of the produce of the estates of contumacious proprietors, which the collectors are therein directed to present to the *sillah* court, are to be held applicable to the statement of the *jumma* payable by defaulting farmers, required to be submitted by the collectors in this section. Decrees that may be passed under this section by the *dewanny adawlut* of any *sillah*, or any provincial court of appeal, or the Sudder Dewanny Adawlut, adjudging the lease of a farmer annulled, shall not be carried into execution in any case whatever, without an order from the Governor General in Council confirming the decree. It shall be at the option of the Governor General in Council, within four weeks after the decree may be received by him, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine as upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed; or, if the defaulter shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed on the defaulter, the court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine, is to levy the amount of it by the same process by which they are directed to enforce decrees of the court, and to pay the amount to the collector of the *sillah*. But if the Governor General in Council shall not within four weeks after the decree shall have been received by him, either order it to be executed, or commute the annulling of the lease for a fine, the decree shall stand good against the defaulter. The process which a collector may institute in the *dewanny adawlut* of the *sillah* under this section, as well as any appeal that may be preferred from the decision of the *sillah* court to the provincial court of appeal, and from the decision of that court to the Sudder Dewanny Adawlut in which the collector may be appellant or respondent, are to be defended or carried on at the public expence, and by the *vakeel* of Government, whom the collector is to furnish with the necessary instructions.

Rule for determining from what decrees of the provincial courts of appeal passed under this section an appeal is to lie to the Sudder Dewanny Adawlut.

Decrees passed under this section not to be carried into execution, without the sanction of the Governor General in Council.

If the lease shall be judged annulled, the Governor General in Council may confirm the decree, or commute the annulling of the lease for a fine within four weeks after he may receive the decree.

If the decree shall be commuted for a fine, how it is to be levied.

Process and appeals under this section to be conducted by the vakeel of Government on the part of the collector, and at the public expence.

XX. If the lease of the defaulter mentioned in Section 19, shall be annulled, he shall receive credit for the collections of the *ameen*, after deducting the charges incurred by his deputation which may be admitted; and if any balance shall then remain due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector is to serve the surety with the written demand prescribed in Section 3, for the amount, and in the event of it not being discharged by the time limited in the writing, the collector is to proceed against the surety, and the defaulter also, if he shall be forthcoming and should not have been previously confined, in the manner in which he is directed to proceed in Section 4 and 5, against defaulters who have not discharged a third part of the instalment of any one month by the fifteenth of the ensuing month. If there shall be a surplus after discharging all the demands above mentioned, it is to be paid to the defaulter. The defaulter shall be at liberty to prosecute in the *sillah* court the dependant *talookdars*, under farmers, and *ryots* in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him on account of the period during which his lease remainded in force.

Accounts with the defaulter how to be settled, if the lease should be annulled.

Balance, if any due, to be levied from him and his surety.

Surplus, if any, to be paid to the defaulter.

Defaulter to be at liberty to prosecute dependant talookdars, under farmers, and ryots for arrears, in the dewanny adawlut of the sillah.

XXI. If a collector shall issue the process prescribed in section 5, against the surety of any proprietor or farmer of land, to convey him to jail, and such defaulting surety shall refuse to obey, or resist, or cause to be resisted, the *peons* deputed by the collector to

Collector how to proceed, when sureties of proprietors or farmers of land refuse to obey or resist the

convey him to jail, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place so that the process cannot be served upon him, the collector who may issue the process is immediately to represent the circumstances through the *vakeel* of Government to the *dewanny adawlut* of the *zillah* wherein the lands on account of which the arrears shall be due may be situated; and upon the *peons* deputed to execute the process, or any two or more credible persons, making oath to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, is to require the defaulter by a publication in writing to deliver himself into the custody of the court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Persian and Bengal languages, if the estate or farm on account of which the money may be due from the defaulter shall be in Bengal or Orissa, or in the Persian language, and the Hindoostanee language and Nagree character, if it be situated in Behar; and shall be fixed up as early after the date of it as may be practicable, at his usual place of abode, if it be within the limits of the *zillah*, and in the principal *cutcherree* in the estate or farm, the office of the collector, and the court-room of the *dewanny adawlut*. If the defaulter shall not surrender himself before the expiration of the period limited in the publication, or, if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge, and the evidence that he may have to produce in his defence, and that which the collector may adduce in support of his representation, if it shall be proved to the satisfaction of the court that the defaulter is guilty of the charge, the court shall adjudge him to pay a fine according to the nature of the offence, and his situation and circumstances in life. If the defaulter shall not appeal to the provincial court of appeal within the time limited for preferring appeals to that court in section 12, Regulation V. 1793, the court is immediately to transmit to the Governor General in Council a copy of the decree and of all the proceedings respecting the charge. If the defaulter shall appeal to the provincial court of appeal within the prescribed time, and that court should confirm the decision of the *zillah* court, or, if the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring appeals to that court in section 10, Regulation VI. 1793, the provincial court of appeal is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court to the Governor General in Council. If an appeal shall be received from the decision of the provincial court of appeal, and the Sudder Dewanny Adawlut shall confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement in the same manner as if the process prescribed in section 5, had been duly served upon him, and he had obeyed it; and the collector is immediately to obtain from the court a copy of the decree and proceedings, and transmit them with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it or not, as may appear to them proper. If that Board should order an appeal to be preferred, and it shall be lodged within the limited time, and the provincial court of appeal should reverse the decision of the *zillah* court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or, if it should be appealable, and an appeal shall not be preferred within the limited time, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings in the *zillah* court, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge proved, and the decision shall be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and the proceedings of the *zillah* court and the provincial court of appeal, with a letter stating his objections to the decree of the latter court, to the Board of Revenue, who are to order him to appeal the cause to the Sudder Dewanny Adawlut (provided the cause shall be appealable) or not, as they may think proper. If the cause shall be appealed, and the appeal shall be received in the Sudder Dewanny Adawlut, and that court should reverse the decision of the provincial court, and adjudge the defaulter to pay a fine, the court is immediately to transmit

process issued by him under section 5, or escape from the peons, or prevent the process being served upon them.

Judge, upon the charge appearing to him well founded,

to issue a publication requiring the defaulter to deliver himself up to the court within four weeks.

In what language the publication is to be written, and where and when it is to be fixed up.

Decree to be passed by the *zillah* court, in the event of the defaulter not surrendering himself within the limited period, or of his delivering himself up within the time, and the charge being proved against him.

Court to transmit the decree and proceedings to the Governor General in Council, if the defaulter should not appeal within the prescribed time.

If the defaulter should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the defaulter not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed, in case the suit should be appealed to them, and they should confirm the decision of the provincial court.

Collector how to proceed, if the *zillah* court should adjudge the charge not proved.

Rules for cases in which the provincial court of appeal may reverse such decisions of the *zillah* courts.

Rules for cases in which the charge may be adjudged proved in the *zillah* court, and the provincial court of appeal shall reverse the decision.

Sudder adawlut how to proceed, in the event of its reversing such decision of the provincial court.

Rule for determining from what decrees of the provincial courts of appeal passed under this section an appeal is to lie to the Sudder Dewanny Adawlut. Decrees passed under this section, not to be carried into execution without the sanction of the Governor General in Council.

Option reserved to the Governor General in Council, of confirming or alleviating the fine, within four weeks after the decree may be received by him.

If the fine shall be confirmed or alleviated, by what court and how it is to be levied.

Process and appeals instituted under this section, to be conducted by the *vakeel* of Government on the part of the collector, and to be carried on at the public expence.

At the close of the year, the Board of Revenue are to propose the sale of the lands of proprietors in confinement for arrears.

Governor General in Council not precluded from ordering the lands of a defaulting proprietor to be sold before the conclusion of the year, whether he be in confinement or not.

Sales of land of proprietors in confinement for arrears which have not been adjudged to be due by a judicial decree whenever ordered to be made, to be suspended, if the proprietor shall deny the arrear to be due, and give the security and otherwise conform to the rules prescribed in Sections 9 and 10.

Where and when such security is to be given, in the event of the sales being ordered to be made at Calcutta or in the zillah.

transmit a copy of its decree and proceedings, and of the decrees and proceedings received from the provincial court, to the Governor General in Council. And that no doubt may be entertained, from what decrees passed by the provincial courts of appeal under this section, an appeal shall lie to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last mentioned court, unless the fine adjudged to be paid by the defaulter, shall exceed one thousand sicca rupees. Decrees that may be passed under this section by the *dewanny adawlut* of any *zillah*, or any provincial court of appeal, or by the Sudder Dewanny Adawlut, adjudging a fine to be paid by a surety, are not to be carried into execution in any case whatever without an order from the Governor General in Council confirming the decree. It shall be at the option of the Governor General in Council, within four weeks after the decree may be received by him, either to order the decree to be executed, or to alleviate the fine. The court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine that may be imposed upon the defaulter, is to levy the amount of it by the same process by which it is directed to enforce decrees of the court, and to pay the amount to the collector of the *zillah*. But if the Governor General in Council shall not, within four weeks after the decree shall have been received by him, either order it to be executed, or alleviate the fine, the decree shall stand good against the defaulter, and the court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving directions for that purpose, is to levy the amount of the fine in the manner above prescribed. The process which the collector may institute in the *dewanny adawlut* of the *zillah* under this section, as well as the appeals that may be preferred from the *zillah* court to the provincial court of appeal, and from the decision of that court to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, are to be defended or carried on by the *vakeel* of Government, and at the public expence.

XXII. If a proprietor of land shall be conveyed to jail by the collector under the powers vested in him by Sections* 4 *and* 5, *and the* ameen *directed to be deputed in Section* 6, *shall not by the close of the year have realized from the estate a sum sufficient for the liquidation of the balance due to Government, and all the admitted charges incurred in consequence of his deputation, the collector is to state the amount of the arrear to the Board of Revenue, who are to report it to the Governor General in Council, and recommend the sale of the lands of the defaulter, or such portion of them as may be sufficient to make good the amount which may be due from him to the public. But no part of this section, or Section* 13, *is to be construed to preclude the Governor General in Council from ordering the sale of the lands of a defaulting proprietor of land, who may not have instituted a suit to contest the arrears, whether he may be in confinement or not, to be made at any time previous to the close of the year in which the arrears may become due, should it in any case appear to him inexpedient to postpone the sale until after the expiration of it. And at whatever period the sale of the lands of a proprietor in confinement may be ordered to take place, if the arrear shall not have been adjudged to be due from him by a decree of a court of justice, and provided he shall previous to the day of sale, deny the justness of the whole or a part of the arrear under his engagements, and give the security, and otherwise conform to the rules prescribed in Sections* 9 *and* 10, *according to the circumstances of the case, the sale of his lands is not to be made until the cause shall be finally decided; and he shall be released, and be considered exactly in the same predicament as the proprietors mentioned in Sections* 9 *and* 10, *who may deny the justness of the whole or a part of any demand, immediately upon the writing specified in Section* 3, *being served upon them. If the sale of the lands shall have been ordered to be made at Calcutta, the proprietor is either to give the required security to the Board of Revenue previous to the day of sale, or to the collector of the* zillah, *eight days prior to the day fixed for the sale, so that there may be sufficient time for him to notify the acceptance of the security to the Board of Revenue. The collector is not to accept of the security unless he shall be satisfied that it is good and sufficient. If he shall accept of the security, he is to forward notice of the acceptance of it to the Board of Revenue in duplicate, by two different posts, to pro-*

* This section is rescinded by Section 11, Regulation III. 1794.

vide against the non-arrival of the notice which may be first dispatched. If the sale of the lands shall be ordered to be made by the collector of the zillah, *he is empowered to suspend it, upon such security being delivered to him previous to the sale; but he is immediately to report the circumstances to the Board of Revenue, for the information of the Governor General in Council.*

Collectors how to proceed, if an arrear of revenue shall be due from a farmer of land at the close of the year, whether he be confined or not.

XXIII. If a farmer of land shall be confined in jail by the collector, under the powers vested in him by Sections 4 and 5, and the *ameen* shall not by the close of the year, have realized from the farm, a sum sufficient for the liquidation of the balance due to Government, and all the admitted charges incurred in consequence of his deputation; or if any balance shall remain due at the close of the year, from any farmer who may not be in confinement, the collector is to demand the payment of it from the surety, and also from the defaulter, and in the event of it not being discharged by the period by which it may be required to be liquidated, in the written demand that is to be served upon the surety, the collector is to proceed against the defaulter, (if he shall not have been previously confined for the demand,) and his surety, in the manner in which he is directed in Sections 4 and 5, to proceed against defaulters who may not have discharged a third part of the instalment of any one month by the fifteenth of the ensuing month: and it shall be optional in the Governor General in Council, either to cancel the lease from the commencement of the year following the year for which the balances on account of which the defaulter and his surety may be confined, or to compel them to perform the conditions of the lease, until the term of it shall expire. If the Governor General in Council shall annul the lease, the defaulter is to be at liberty to prosecute the dependant *talookdars*, under farmers, or *ryots*, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.

Collector to attach lands of sureties, whom he may proceed, to confine, sufficient to answer the demand against them.

How the collector is to proceed, if the surety possesses no lands in his *zillah*.

XXIV. When a collector shall proceed to confine the surety of any proprietor or farmer of land, in the cases authorized in this regulation, he is immediately to cause such portion of the defaulter's lands, as he may estimate to be sufficient to make good the amount of the demand, in the event of their being sold, to be attached under the rules prescribed in Section 6, for the attachment of the lands of defaulting proprietors. If the surety shall not possess any landed property in his *zillah*, the collector is to depute an *ameen* into the *zillah* in which the defaulter may have landed property, with a letter stating the amount of the demand on him, and the property to be attached. The collector of such *zillah* is immediately to order a *peon* to point out the property to the *ameen*, who is to keep it in attachment, until the Board of Revenue shall have obtained the sanction of the Governor General in Council for the sale of it. The *ameen* is to apply the amount of the collections from the lands, after deducting the expences of his establishment, towards the discharge of the public revenue, which he is to pay to the collector of the *zillah* in which the lands may be situated. If any surplus shall remain after making good the public dues, it is to be appropriated towards the discharge of the demand, on account of which the attachment of the lands may have been made. If the property of the surety that may be attached shall be too inconsiderable to admit of its being charged with the expence of an *ameen*, the collector to whom the money due from the surety may be payable, is to apply to the collector of the *zillah* in which the lands may be situated, to order the nearest *tehsildar* or native officer employed under him in the business of the collections, to take charge of the lands, and the collector to whom the application shall be made, is to comply with it, and the *tehsildar* or native officer to whose charge he may commit the lands, is to perform the duties prescribed to the *ameen* in Section 6, and under the same restrictions and penalties. The collector of the *zillah* in which the lands may be situated, is not to be liable to any prosecution on account of the attachment; but the collector in conformity to whose application the attachment may take place, is to be responsible for the consequences, in the same manner as if the lands had been situated in his own *zillah*. The Board of Revenue are to apply to the Governor General in Council, for his sanction for the sale of the lands belonging to the surety, either during the course of the year in which they may be attached, or after the close of it, as they may deem advisable.

Board of Revenue to apply for permission to sell the lands of the surety.

Collector to depute an ameen to sequester lands ordered to be sold.

Duties of the ameen.

XXV. When lands are ordered to be sold under this regulation, the collector (unless the lands shall have been previously committed to the charge of an ameen, or tehsildar, or other native officer, in which case such officer is to perform the duties hereafter specified in this section) is immediately to depute an ameen, with instructions to hold the lands in attachment; collect the rents and revenues, under the rules and restrictions prescribed regarding lands under attachment in Section 6; prevent waste being committed by the defaulter; and furnish any information that may be required for the adjustment of the jumma to be assessed on the lands directed to be sold. If the property ordered to be sold shall be too inconsiderable to admit of its being charged with the expence of an ameen, it is to be committed to the nearest tehsildar, or other officer, employed under the collector in the business of the collections, who is to perform the duties prescribed to the ameen, and under the like restrictions and penalties.*

Where sales of land that may be ordered to take place under this regulation shall be made.

Publication of the notice of such sale where to be made, and what it is to contain.

**XXVI. Sales of land that may be ordered to take place under this regulation, are to be made by the collector of the sillah in his public office, or at Calcutta, in the office of the Board of Revenue, under the superintendence of their secretary, according as the Governor General in Council may direct. Previous to any such sale taking place, a publication is to be made in the Persian and Bengal languages, if the lands shall be situated in Bengal or Orissa, or in the Persian language, and in the Hindoostanee language and Nagree character, if the lands shall be in Behar, specifying the jumma at which the lands, or each lot of them, if they are ordered to be sold in two or more lots, will be disposed of, and the place, date, and hour of the day, fixed for the sale, and the proportion of the revenue payable on account of the year in which the sale of the lands may take place, for which the purchaser is to be responsible, or, if the exact proportion cannot be ascertained, the rules by which the amount of it is to be adjusted. The publication is to be fixed up in some conspicuous place in the court-room of the dewanny adawlut of the sillah, the office of the collector, the principal town or village in the lands to be sold, and the office of the secretary to the Board of Revenue. The publication is to be fixed up at the several places above mentioned, for a term not less than one month before the sale takes place. All expences attending the sale, and the appointment of the ameen directed to be deputed by Section 25, are to be deducted from the proceeds of the sale. The other conditions of sale contained in Sections 27 and 28, as well as any other stipulations that may be made, are to be fixed up in a conspicuous part of the room in which the sale may be directed to take place, on the day of sale, and during the three days preceding it.*

Expences of the sale from whence to be defrayed.

Remaining conditions of sale, where and for what period to be fixed up.

Penalty for purchasers not paying the purchase money by the stipulated period.

XXVII. A deposit of five per cent. on the amount of the purchase money, is to be made at the time of the sale by every purchaser of land that may be disposed of under this regulation. If the purchaser shall omit to discharge the purchase money within the period which may be stipulated, he is to forfeit the deposit to Government, and the lands are to be resold at his expence. If the lands shall be disposed of at a lower price than that offered by the first purchaser, he is to make good the deficiency. If a profit shall arise on the second sale, it is to be carried to the credit of the defaulter; or of Government, if the lands be sold on the public account under Section 18. If the first purchaser shall refuse or omit to make the deposit, or to pay within the required time, the amount of the deficiency, and the expences arising on the resale, after being served by the collector of the sillah in which he may be or reside, or by the Board of Revenue, if he shall be in Calcutta, with a written demand for the amount, similar to that directed in Section 3, to be served on proprietors and farmers of land from whom arrears of revenue are due, such defaulting purchaser shall be considered exactly in the same predicament, as sureties of proprietors or farmers of land, who omit or refuse to discharge any sum of money due from them, and he is to be proceeded against accordingly by the collector of the sillah in which he may be or reside.

How such penalty is to be levied.

Purchasers of lands under this regulation, not to be responsible for arrears or suspensions, on account of former years, unless otherwise stipulated in the conditions of sale.

XXVIII. The purchasers of lands sold under this regulation, are not to be held responsible for any arrears or suspensions of revenue that may be due to Government from the lands prior to the year in which the purchase may be made, unless it shall be otherwise stipulated in the conditions of sale. Arrears or suspensions not so stipulated to be

Sect. 25. to 28. rescinded by clause first, Section 2, Regulation XI. 1822.

made

made good by the purchaser, are to be paid by the former proprietor, and recourse is to be had to the remainder of his real, or to any other property which he may possess, or to the confinement of his person, or to both his person and property, for the recovery of the amount. Arrears of rent or revenue that may be due to the defaulting proprietor from his dependant talookdars, *under farmers, or ryots, preceding the date on which the lands may be sold, are to belong to him, and are to be recoverable by him by suit in the* dewanny adawlut *of the* sillah. *The defaulting proprietor, however, shall be at liberty to transfer his right to such arrears to the new proprietor.*

By whom such arrears and suspensions are to be made good.

XXIX. Any person confined for arrears of revenue, or other demands of Government, under this regulation, either pursuant to a judicial decree, or without such decree, is to be at liberty to apply to the judge of the court of *dewanny adawlut* of the *sillah*, by the collector of which he may have been confined, to require such collector to show cause why he is continued in confinement. If the person making such application shall be confined under a decree passed by the Sudder Dewanny Adawlut, or of the *sillah* court, or the provincial court of appeal, and the time prescribed for appealing from the decision shall have elapsed, the judge is not to enter into the merits of the case, but only to enquire, whether the prisoner has discharged the amount of the decree, and the sums which may have become due from him subsequent to his confinement. If the prisoner shall not be confined under a judicial decree, but under the process which the collectors are empowered by this regulation to issue for conveying persons to jail for claims of Government, and he shall dispute the justness of the demand, the judge is not to enquire into the merits of the case, but is to leave the prisoner to prosecute the collector under Section 12, which is hereby extended to demands on sureties, and purchasers of land, as far as it can be applied to them. If, however, the prisoner shall admit the justness of the demand for which he was confined, as well as any other claims that may be made upon him, for sums stated to have become due from him subsequent to his confinement, and shall assert that the whole of such sums have been discharged by him, the judge is to proceed to enquire, whether the prisoner has actually paid such sums or not. Upon examination of the prisoner's accounts of his payments, (which examination is to be considered as a continuation of the original suit or process, and not as a new suit or process,) if it shall appear to the judge that the demands for which he may be in confinement have been liquidated, he is to release him, upon his giving security to make good any sum which the collector may state to be still due from him, in the event of the cause being appealed, and the sum being awarded in favour of Government. If the collector shall not object to the adjustment of accounts made by the court, or, if he shall object to them, and the person confined shall omit to give the security above required, and the collector shall not appeal within the time limited for preferring appeals, the judge is to release the prisoner without taking any security. If it shall be found that the whole, or a part of the sum for which such person may be in confinement, remains undischarged, and he shall acquiesce in the adjustment of accounts made by the court, and shall have been confined on account of such demand for a term exceeding one year, the judge is empowered to release him, upon his giving good security to pay the sum remaining due from him, by instalments during the course of one year after his release. The collector, and the prisoner, are to be allowed to appeal from the decision which may be passed by the court under this section, in the event of either of them being dissatisfied with it, under the rules regarding appeals prescribed in Regulations V. and VI. 1793. The rules prescribed to collectors in Section 30, regarding the decisions therein specified, are to be considered applicable to all decisions passed under this section.

Judges empowered to require collectors to show cause, why a defaulter is continued in confinement under a judicial decree, and how to proceed in such cases.

Rule applied where a person is confined without a judicial decree.

XXX. Upon a decision being passed in the *dewanny adawlut* of any *sillah*, by which the whole, or any part, of a sum of money that may have been demanded, or actually received, by a collector, as an arrear of revenue under this regulation, from any proprietor or farmer of land, shall be adjudged not to be due, the collector is to apply immediately to the court, through his *vakeel*, for a copy of the proceedings and decree. The court is to order copies of the proceedings and decree to be delivered to the collector with all practicable dispatch. The collector is to forward the papers, without delay, to the Board of Revenue, with a letter stating his objections to the decree. If the Board shall be of opinion that the decision is not well founded, they are to authorise the collector to appeal the cause to the provincial court of

Collector how to proceed, in case of his being cast in a prosecution instituted against him in the sillah court, on account of sums demanded or received by him as arrears of revenue.

appeal. If that court shall confirm the decision of the *zillah* court, the collector is to apply for, and the court is to grant, a copy of their proceedings and decree in appeal, exclusive of the decree and proceedings received from the *zillah* court. The collector is to forward the decree and proceedings of the provincial court, to the Board of Revenue, with a letter containing his objections to the decree of that court. If the Board shall be dissatisfied with the decision of the provincial court of appeal, and the cause shall be appealable to the Sudder Dewanny Adawlut, they are to direct the collector to prefer an appeal to that court. If the Board of Revenue are satisfied with the decision of the provincial court of appeal, they are to direct the collector not to prefer an appeal to the Sudder Dewanny Adawlut. In all cases in which the Board of Revenue may order the collector to prefer an appeal to the provincial court, the collector is to be indemnified by Government, for all costs and damages that may have been awarded against him by the *zillah* court. On the other hand, if the Board of Revenue shall deem the decision of the *zillah* court equitable, and not direct an appeal, the collector is to defray all the costs and damages that may have been awarded against him in that court. The collector is nevertheless to be at liberty to appeal the cause, but at the risk of paying all costs and damages that may be adjudged against him in appeal, in the event of his being ultimately cast. Appeals in which the collectors may be engaged, either in the provincial court of appeal, or the Sudder Dewanny Adawlut, in consequence of orders from the Board of Revenue, are to be carried on by the *vakeel* of Government, and at the public expence.

Collectors to be indemnified for all expences incurred in suits in the *zillah* court, from the decision on which the Board of Revenue may direct an appeal.

XXXI. If a collector shall be prosecuted under Sections 9, 10, 12, 14, 22, or 29, and the prosecutor shall be cast, or be dissatisfied with the decision of the judge of the *dewanny adawlut* of the *zillah*, and appeal to the provincial court of appeal, the collector is to appoint one of the *vakeels* of the court to plead the cause. If the decree of the *zillah* court shall be confirmed, or the appellant should be dissatisfied with the decision of the provincial court of appeal, and appeal to the Sudder Dewanny Adawlut, and an appeal should be admitted, the collector is to appoint one of the pleaders in that court to defend the suit. If the provincial court of appeal shall not confirm the decision of the *zillah* court, the collector is to apply to the provincial court for a copy of the proceedings and decree of the *zillah* court, and of their proceedings and decree in the appeal. The courts are to furnish the collector with these papers with all practicable dispatch, and the collector is to forward them to the Board of Revenue, with a letter stating his objections to the decree in appeal. If the Board shall be of opinion that the decree of the provincial court is not well founded, they are to authorize the collector to appeal to the Sudder Dewanny Adawlut. If the Board shall see no ground for appealing from the decision of the provincial court of appeal, the collector is nevertheless to be at liberty to prefer an appeal to the Sudder Dewanny Adawlut, but at the risk of paying all the costs and expences which may be awarded against him by that court, in the event of his being cast. All appeals that may be preferred by the collector to the provincial court of appeal, or to the Sudder Dewanny Adawlut, or in which he may be respondent, under this section, agreeably to the orders of the Board of Revenue, are to be carried on at the public expence, and conducted by the *vakeel* of Government, who is to be furnished with the necessary instructions for that purpose by the collector.

If persons prosecuting under Sections 9, 10, 12, 14, 22, or 29, shall be cast, and appeal, the collector is to nominate one of the *vakeels* of the provincial court of appeal, to defend the appeal. If the decision of the *zillah* court should be confirmed, and the cause be appealed to the Sudder Dewanny Adawlut, and appeal be admitted, the collector is to appoint one of the *vakeels* of that court to defend the appeal. Collector how to proceed, if the provincial court should not confirm the decision of the *zillah* court. Board of Revenue to order the collector to appeal, if they think the decision of the provincial court not well founded. If the Board of Revenue shall not direct an appeal, the collector is to be at liberty to appeal but at his own risk. All appeals preferred by the collector under this section, agreeably to the orders of the Board of Revenue, to be carried on by the *vakeel* of Government, and at the public expence.

Collectors to appoint *vakeels* of the *zillah* court to defend suits preferred against them under this regulation, and to nominate *vakeels* of the courts of appeal to carry on appeals which they may have preferred without the orders of the Board of Revenue.

XXXII. In every case, in which a collector may be prosecuted in the *dewanny adawlut* of the *zillah* under this regulation, for sums demanded or received by him on behalf of Government, from any proprietor or farmer of land, or from any surety, or from any purchaser of land; or for any sums demanded, or received, or taken by him, directly or indirectly, for his own use, from any of the abovementioned descriptions of persons, over and above what he may be entitled to demand on behalf of the public; or for any acts done in his official capacity that may be repugnant to this regulation, or which may not be warranted by it, and in appeals that he may have preferred without the orders of the Board of Revenue, he is to appoint any of the authorized *vakeels* of the court before which the suit may be brought, to plead the cause.

What suits instituted against a collector under this section, are to be considered of a personal and private nature, and how he is to defend them.

XXXIII. In prosecutions that may be instituted in the *dewanny adawlut* of any *zillah* against the collector of the *zillah*, for sums of money demanded, or directly or indirectly received or taken by him for his own use from any proprietor or farmer of land, or any surety, or any purchaser of land; or for any acts done in his official capacity that may be repug-

nant to this regulation, or which may not be warranted by it, and that shall not involve any claims to sums received or demanded by him on behalf of Government, in conformity to this regulation, (which claims are to be made the subject of distinct suits, and are to be tried in the manner and under the rules prescribed in this regulation,) the collector is not to forward the proceedings and decree to the Board of Revenue. The suit is to be considered entirely as a dispute of a private nature, between the collector and the prosecutor, and the collector is to defend it at his own risk and expence, in the same manner as individuals amenable to the courts, and not employed by Government, are required to defend suits instituted against them.

Collectors not to derive any pecuniary advantage from suits in which they may be engaged, except in the cases specified in section 33.

XXXIV. The collectors are not to derive any pecuniary advantage whatever, from suits that they may institute, or which may be preferred against them in any of the courts of justice in their official capacity, with the exception of suits in which they may be engaged under section 33, the sums awarded to them in which they are to apply to their own use. On the other hand, it is not intended that the collectors should sustain any loss in levying the dues of Government, in cases in which their conduct may be adjudged by a final judicial decree, to be conformable to this regulation. The collectors are accordingly to bring to the credit of Government in their monthly accounts, all sums whatever, (with the exception above specified,) that may be adjudged to them as costs or damages by any of the courts of civil justice; and they are to insert at the foot of their monthly accounts, or in a separate account, or in their monthly accounts under a distinct head, according as the Board of Revenue may deem advisable, all sums which they may disburse in conformity to this regulation, on account of process or suits directed to be carried on by the *vakeel* of Government, the costs and damages in which are expressly directed to be defrayed by the public, or in suits, the costs and damages in which may be ultimately defrayable by Government, but for which the collectors are directed to be held responsible in the first instance. But they are in no case to charge these disbursements in their accounts, without previously obtaining the special sanction of the Board of Revenue for that purpose. Until such sanction is procured, the collectors are to be held answerable for the disbursements.

Nor to suffer any loss, if their conduct is determined to be conformable to the regulations.

Collectors to bring to account all costs and damages that may be adjudged to them, with the exception above specified.

Collectors to issue from the public treasury, and to insert at the foot of their accounts, the expences of suits that are in all events to be defrayed by Government, as well as the expences of suits that may be ultimately defrayable by Government; but not to insert such expences in their accounts, without the sanction of the Board of Revenue.

XXXV. If a collector shall have been compelled to pay costs or damages in any suit under this regulation, and upon his stating the case to the Board of Revenue, it shall appear to them, upon a consideration of the circumstances of it, that he ought not to be made responsible for the amount, the Board are to transmit the case to the Governor General in Council, who will determine whether the collector shall be made responsible for such costs or damages or not.

Board of Revenue to report to the Governor General in Council, any cases in which a collector may have been compelled to pay costs or damages, and for which they may be of opinion he ought not to be made responsible.

XXXVI. Security is not to be demanded from the collectors for their personal appearance, in any suit in which they may be engaged under this regulation. Nor shall any security be required from them for the payment of costs, or for the performance of the decrees or orders of the court, in suits which are directed by this regulation to be carried on by the *vakeel* of Government, and at the public expence. In suits for sums demanded or received by the collector on behalf of Government, for the costs and damages in which he is declared eventually responsible, the courts are to require the same security from the collector for the payment of the costs and damages, as would be taken in similar cases from individual suitors; but they are not to require any security from him, for the performance of their decrees respecting the sums which may constitute the subject of the suits, as Government will be answerable for the due performance of them. In the suits described in Section 33, which may be instituted against the collector, he is to give the same security for the payment of the costs, and the performance of the decrees and orders of the courts, as would be required from individual suitors in similar cases. If a collector shall refuse or omit to pay within the the limited period, any sum of money that may be ordered to be levied from him, either on account of the suits described in Section 33, or as costs of damages in any other suits, for the expences incurred in which he is declared eventually responsible, the court is to levy the amount from his surety by the customary process. If the court shall not be able to obtain payment from his surety, the judge is to report the circumstances to the Governor General in Council, who will order the amount to be paid from the public treasury, and deduct it from the allowances which may be receivable by the collector from Government. In all other cases, if a collector shall omit or refuse to obey any order or decree of a court of judicature, the court from which the process shall have issued, is to fine him according to the nature

Cases in which security is to be demanded from collectors for costs or damages, or for the performance of decrees of the court.

Courts how to proceed in the event of a collector omitting or refusing to obey any order or decree.

nature of the offence. In the event of the collector refusing or omitting to pay the fine, the court is to report the circumstances to the Governor General in Council, who, provided he shall approve of the fine, will order the amount to be stopped from the allowances which may be receivable by such collector from Government.

Board of Revenue to issue instructions to the collectors, regarding the mode of inserting in their accounts, their receipts and disbursements in the suits herein mentioned, and to require such vouchers for the sums as they may think proper.

XXXVII. The Board of Revenue are to issue such instructions as they may think advisable to the collectors, regarding the mode of inserting in their monthly accounts, the sums which may be paid to them as *costs* and *damages*, in consequence of the orders or decrees of any of the courts of civil judicature, or noting at the foot of their accounts, or charging under a separate head in their monthly accounts, the sums which they may disburse as costs or damages which are expressly directed to be defrayed by Government, whatever may be the final decision in the cause, or that may be ultimately defrayable by Government, although in the first instance the collectors are to be held responsible for them; and to require such vouchers as they may deem necessary for such receipts and disbursements, as well as for the sums which the courts may adjudge to be repaid from the public treasury, or not to be due to the public.

Process issued against collectors under this regulation, how to be served.

XXXVIII. When any process or order shall be issued by any of the courts of civil judicature to the collector of a *zillah*, in suits instituted under this regulation, the register of the court immediately serving the process or order, is to transmit it under a cover sealed in the form of a letter, and superscribed with his name and official appellation, and addressed to the collector. The collector is to acknowledge the receipt of the process or order, on the day on which he may receive it, by a letter addressed to the register of the court by which it may have been served.

Collectors allowed to forward instructions to their *vakeels* in the courts of appeal, by the dawk free of postage.

XXXIX. To facilitate the communication between the collectors and the *vakeels* in the provincial courts of appeal, and the Sudder Dewanny Adawlut, who may be intrusted with the conduct of any appeals, (including appeals from the decisions in the suits described in Section 33,) in which they may be engaged under this regulation, either whilst they may continue in the office of collector of the *zillah* in which such suits may have arisen, or after their removal from the office, the collectors are permitted to forward free of postage, any instructions which they may have to transmit to the *vakeels* of such courts. The instructions are to be enclosed under a cover, sealed, and directed to the *vakeel*. The instructions, so sealed and directed, are to be transmitted under a sealed cover, addressed to the register of the court in which the cause may be depending, and superscribed with the name and official appellation of the person dispatching it. The register of the court, immediately upon receiving the instructions, is to deliver them sealed to the *vakeel* to whom they may be directed. Any person who may be removed from the office of collector of a *zillah*, and may have suits depending in the *dewanny adawlut* of such *zillah*, after his removal from the office, is likewise empowered to forward instructions to his *vakeel* through the register of the court. In like manner the *vakeels* in any of the courts to whom the pleading of suits may be committed under this regulation, by persons holding the office of collector, or after they have been removed from the office, are authorized to forward any papers which they may have to convey to their employers, by the public dawk free of postage. The papers are to be enclosed in a cover sealed with the seal of the *vakeel*, and the register of the court is to transmit the papers so sealed, in a cover addressed to the person to whom they are to be forwarded, and superscribe the cover with his official signature.

Instructions to be sealed and inclosed under a sealed cover addressed to the register of the court.

Persons removed from the office of collector, and having suits depending in the adawlut courts, empowered to forward instructions to their *vakeels* by the public dawk, and through the register of the court.

Vakeels in any of the courts employed by collectors under this regulation, empowered to forward papers to their constituents free of postage, through the register of the court in which the cause may be depending.

XL. Arrears of *tuccavy*, or any money advanced by Government to proprietors or farmers of land, for making or repairing embankments, reservoirs, or water courses, or other improvements to their estates or farms, are to be recovered by the same process as is prescribed for exacting payment of arrears of revenue, and under the same rules and restrictions as far as they may be applicable.

Sums advanced as tuccavy, or postbundy, &c. to be recovered under this regulation, in the same manner as arrears of revenue.

Collectors not to be liable to prosecution for the acts of their predecessors.

What suits persons removed from the office of collector, are bound to prosecute or defend after their removal.

XLI. No collector is to be liable to prosecution for any official acts of his predecessor. But persons who may be removed from the office of collector of the revenue of a *zillah*, are to carry on, in the same manner as if they had continued in the office, all suits of the nature of those described in Section 33, in which they may be engaged, and all suits preferred against them in the *zillah* courts, for sums that they may have demanded or received on behalf of Government, and for the costs and damages in which they are declared eventually

answerable; as well as all suits, being appeals from decisions in suits of the last mentioned description, excepting such of those appeals as they may have preferred, or in which they may have become a party, in consequence of orders from the Board of Revenue.

Collectors to carry on the unfinished suits and process herein specified, which may have been instituted under their predecessors.

XLII. If the collector of a *zillah* shall die, or be removed from his office, his successor is to carry on all unfinished process or suits in the court of *dewanny adawlut* of such *zillah*, directed by this regulation to be conducted by the *vakeel* of Government, and at the public expence; and all appeals from the decrees of the *zillah* court, or the provincial court of appeal in such cases; as also all appeals from the decrees of the *zillah* court, or the provincial court of appeal, in which the former collector may have been engaged, in consequence of orders from the Board of Revenue, and which are ordered to be pleaded by the *vakeel* of Government, and at the public expence.

Cases in which the Board of Revenue are to take upon themselves the prosecution or defence of appeals in the Sudder Dewanny Adawlut.

XLIII. In cases in which the Board of Revenue may judge it expedient, or in which they may receive orders for the purpose from the Governor General in Council, they are to take upon themselves the superintendence of the prosecution, or defence of any appeal, in the Sudder Dewanny Adawlut, which a collector may prefer, or be engaged in, pursuant to their orders, instead of leaving the superintendence of the appeal to him.

If the proceeds of the sale of the *malgoozarree* lands of any defaulter are not equal to the demand against him, his other property to be sold to make good the deficiency.

XLIV. If the lands subject to the payment of revenue to Government, belonging to any defaulting proprietor or farmer of land, or any surety, or purchaser of land, which may be sold under this regulation, shall not produce a sum sufficient for the liquidation of the public demand, any other real or personal property which the defaulter may possess, is to be attached and sold to make good the deficiency, under the same rules as his lands subject to the payment of revenue to Government are directed to be sold, as far as those rules may be applicable to such property. And if any property shall be attached, and ordered to be put up to sale, and the sale shall be countermanded in consequence of the proprietor discharging the claim upon him, or other cause, he is nevertheless to be held responsible for all expences that may be incurred in consequence of the attachment of the property, in the same manner as if the sale of it had taken place; and in the event of his omitting to discharge the amount, it is to be levied by the same process, as the demand for which the property originally ordered to be sold, may have been directed to be levied.

Expences attending the attachment of property ordered to be sold, but the sale of which may be countermanded, to be defrayed by the proprietor.

How the process in Section 5, is to be served on defaulters, being or residing in the cities of Patna, Dacca, Moorshedabad, or Calcutta.

XLV. If any proprietor or farmer of land, against whom the collector may issue the process specified in Section 5, shall be or reside in either of the cities of Patna, Dacca, or Moorshedabad, the collector is to order the two *peons* whom he may charge with the writing for the apprehension of the defaulter, to proceed to the judge of such city, who is to order a *peon* to accompany them, to point out the place of residence of the defaulter. The two *peons* are to take the defaulter into custody, and convey him to the jail of the *dewanny adawlut* of the city in which they may so apprehend him. The remainder of Section 5, with regard to cases in which defaulters shall not reside or be within the limits of the *zillah* wherein the lands on account of which the arrears may be due shall be situated, is to be considered equally applicable, as if the defaulter had been apprehended in any *zillah*, instead of in such city. If any defaulter of either of the descriptions before mentioned in this section, shall be or reside within the limits of the town of Calcutta, the collector is to forward the written demand for the amount claimed from the defaulter to the Board of Revenue, who are to submit it to the Governor General in Council. Upon the receipt of the writing, the Governor General in Council will either order the defaulter to be apprehended, and conveyed to the jail of the *dewanny adawlut* of the *zillah* from the collector of which the written demand may have issued, or adopt such other measures as may appear to him proper. If the Governor General in Council shall cause the defaulter to be apprehended, and conveyed to the jail of the *dewanny adawlut* of the *zillah* above mentioned, he is thenceforward to be considered exactly in the same predicament, as if he had been apprehended within the limits of such *zillah*, and conveyed to jail by the collector of it, under Section 5.

Zillah courts how to proceed in cases in which persons may dispute the validity of the engagements under which demands may be made upon them by the collectors, or have any objections to make to the en-

XLVI. If a proprietor, or farmer of land, or a surety, or a purchaser of land, shall deem himself aggrieved under this regulation, by any act which may be done by a collector, in conformity to special orders from the Governor General in Council, or the Board of Revenue; or if a collector shall demand a sum of money under this regulation, on behalf of Government, from any of the abovementioned descriptions of persons, and the stated defaulter shall admit the demand to be conformable to the engagements or stipulations under which

gagements, either wholly or partially, under the Regulations, or deem themselves aggrieved by acts done by the collector, in conformity to special orders from the Governor General in Council, or the Board of Revenue.

the collector may make the demand, but deny their validity, or have any objections to make to them either wholly or in part, under any regulations passed by the Governor General in Council, the collector is not to be liable to any prosecution on account of such act, or the demands that he may make conformably to such engagements or stipulations, which are to be held valid, until they are set aside, or altered, by a final judicial decision; and the proprietor, or farmer of land, or surety, or purchaser of land, is to discharge the demands that may be made upon him by the collector under such engagements or stipulations, until the decision shall be passed. In the cases above specified, Government is to be considered as a party in the cause with its subjects, and the proprietor, or farmer of land, or the surety, or purchaser, is to present a petition to the judge of the *dewanny adawlut* of the *zillah* in which the cause may be cognizable, stating his objections to the act, or to the engagements or stipulations, and praying that the Governor General in Council will order the *dewanny adawlut* of the *zillah*, to try the points or matters contested under the Regulations. The judge to whom the petition may be presented, is to forward it immediately to the Governor General in Council, who, provided he shall not think it proper to afford the redress that may be solicited by the petitioner, and the courts of justice shall be competent to try the cause, will direct the court in which it may be cognisable, to proceed to the trial of it. If the Governor General in Council shall order the cause to be tried, the judge of the court is to send a written notification of the order to the complainant, and the cause is to be considered as filed in the court, from the date of the notification. The court is then to proceed to try the suit, under the same rules and regulations as are prescribed for the trial of suits between individuals. The collector of the *zillah* is to carry on, under the orders of the Board of Revenue, all suits that may be instituted against Government in conformity to this section, and to issue the necessary instructions to the *vakeel* of Government in the *zillah* court, and in the provincial court of appeal, or Sudder Dewanny Adawlut, should the cause be appealed to the former, or both of those courts. In the event of Government being cast in the *zillah* court, or in the provincial court of appeal, the collector is to send copies of the decree, and proceedings of the court, (which are to be delivered by the court to the collector, as soon as may be practicable upon his applying for them,) with a letter stating his objections to the decision, to the Board of Revenue, who are to submit them, with their opinion on the case, to the Governor General in Council, who will order an appeal to be preferred from the decision or not, as he may deem advisable. All costs and damages that may be awarded against Government, in suits instituted under this section, are to be defrayed from the public treasury.

Rules in this regulation regarding collectors, to be held applicable to acting collectors.

XLVII. The rules respecting collectors contained in this regulation, are to be considered equally applicable to the assistants of collectors, or other persons who may be appointed by the Governor General in Council to officiate as collector of any *zillah*, during the temporary absence of the collector, or whilst the office may be vacant.

Joint proprietors of estates committed to the charge of a manager, not to be confined under this Regulation for demands of Government.

XLVIII. No part of this regulation is to be construed to authorise the confinement of the person of any joint proprietor of an estate committed to the charge of a manager, under Sections* 23, 24, 25, 26, *Regulation* VIII. 1793. Nor the confinement of the persons, or the sale of the lands, of disqualified proprietors, whose estates may be entrusted to a manager under Regulation X. 1793, for arrears of public revenue incurred whilst their respective estates were under the charge of managers, in conformity to the rules contained in the two regulations above mentioned. Nor to empower the collectors to take a female proprietor of land into custody, or order any such proprietor to attend them in person, under any pretext whatever. Nor to take into custody, or require the personal attendance of any proprietor of land, with whom a settlement has been or may be concluded, or any farmer of land or his surety, except in the cases specified in this regulation, in which they are expressly authorized to issue process against their persons. Arrears of revenue that may become due from female proprietors of entire estates, who may be exempted from the operation of Regulation X. 1793, and acknowledged as the ostensible managers of their own lands, and from proprietors of joint undivided estates committed to the charge of a manager, in conformity to Sections 23, 24, 25, 26, Regulation VIII. 1793, are to be recovered by the sale of their lands, or any other property which they may possess.

Lands of disqualified proprietors committed to the charge of a manager, not to be sold for demands of Government, nor their persons to be confined, under this Regulation. Female proprietors not to be confined or required to attend in person in any case whatever. Other proprietors and farmers of land, not to be taken into custody, or required to attend in person, except in the cases herein mentioned. Demands of Government due from female proprietors, exempted from the operation of Regulation X. 1793, and from proprietors of joint undivided estates, under charge of a manager, how to be recovered.

* This sentence is virtually repealed by Regulation XVII. 1805.

A. D. 1793. REGULATION XVII.

A REGULATION *for re-enacting, with Alterations and Amendments, the Regulations passed by the Governor General in Council on the 20th July 1792, for empowering Landholders and Farmers of Land to distrain and sell the personal Property of Under-farmers, Ryots, and dependant Talookdars, and (in certain specified cases) their Sureties for Arrears of Rent or Revenue, and for preventing Landholders and Farmers of Land, confining or inflicting corporal Punishment on their Under-farmers, Ryots, and dependant Talookdars, or their Sureties, to enforce Payment of Arrears.*—PASSED *by the Governor General in Council, on the 1st May* 1793, *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

FROM the regulations not defining the nature and extent of the coercion which landholders and farmers of land might legally exercise over their under-farmers, *ryots*, and dependant *talookdars*, to enforce payment of arrears of rent or revenue, many landholders and farmers, availing themselves of the sanction of former usage, had recourse to the most oppressive means for realizing arrears, and frequently employed the same severities for the purposes of extortion; whilst others, doubtful what measures they were empowered to adopt to enforce payment from defaulters, and apprehensive of subjecting themselves to prosecution for oppression, refrained from all compulsion, and were often defrauded of arrears to which they were justly entitled. These defects in the regulations tending to screen oppression and dishonesty on the one hand, and to discourage moderation and good faith on the other; and it being as essential to the prosperity of the country and the punctual collection of the public revenue, that landholders and farmers of land should have the means of compelling payment from defaulters without being obliged to have recourse to the courts of justice, and incurring the delay and expence necessarily attending a law process for the recovery of every arrear, as that under-farmers, *ryots*, and dependant *talookdars* should be protected from oppression and unjust demands; the Governor General in Council, with a view to the attainment of these important objects, passed certain regulations on the 20th July 1792. The rules and orders contained in those regulations are hereby re-enacted with alterations and amendments.

What persons may distrain. Whose and what property is liable to distraint and sale.

II. *Zemindars*, independent *talookdars*, and other actual proprietors of land, and farmers of land who hold their farms immediately of Government, are empowered to distrain without sending notice to any court of justice or any public officer, (excepting the after notice directed to be given in the cases of defaulters employed in the provision of the Company's investment, or the manufacture of salt as specified in section 31,) the crops and products of the earth of every description, the grain, cattle, and all other personal property, whether found in the house or on the premises of the defaulter, or in the house or on the premises of any other person within or without the limits of the estate or farm of the distrainer, belonging to their under-renters and *ryots*, and the *talookdars* paying revenue through them, for arrears of rent or revenue, and to cause the said property to be sold for the discharge of such arrears.

The same powers are likewise vested in dependant *talookdars* for the recovery of arrears of rent from their under-farmers and *ryots*, and also in under-farmers who farm lands from *zemindars*, independent *talookdars*, or other actual proprietors of land, or dependant *talookdars*, or farmers of land who hold their farms immediately of Government, to enable such under-farmers to enforce payment of arrears of rent or revenue from their *ryots*, under-farmers, or dependant *talookdars*. The several descriptions of landholders and farmers of land above specified are to exercise the powers hereby vested in them under the following rules and restrictions.

What property is not liable to distraint and sale.

III. Persons vested with the power of distraint shall not distrain or sell the lands, houses, or other real property of their under-farmers and *ryots*, or the *talookdars* paying revenue through them; nor goods or advances belonging to the Company in the hands of any weaver, manufacturer, or other persons employed in the provision of their investment; nor the loom, thread, unwrought silk, or materials of manufacture of any weaver or manufacturer; nor the tools of any tradesman or labourer standing towards them in the relation of under-farmer, *ryot*, or dependant *talookdar*.

Distraint and sale of it illegal and void. Penalty.

All such distraints and sales are declared illegal and void. The defaulter shall stand acquitted of the arrear for which the distress may be levied, and the property shall be restored to him, or the distrainer shall be compelled to make good to him the value of it, if it shall be personal property, and shall have been destroyed, damaged, or injured, or shall not be forthcoming; and the distrainer shall be further obliged to pay to him damages adequate to the loss which he may prove to have sustained, in consequence of such attachment or sale, with all costs of suit.

What property is not to be distrained, if other sufficient property can be attached.

Penalty.

IV. The ploughs and implements of husbandry, the cattle actually trained to the plough, and the seed grain of under-farmers, *ryots*, and dependant *talookdars*, shall not be destrained for arrears, provided the defaulter shall possess, and the distrainer shall have it in his power to attach, other cattle, grain, or property sufficient for the discharge of the arrear. Distrainers are enjoined to attend strictly to this rule, and every deviation from it shall be punished by an award to the party aggrieved of damages adequate to the injury he may have sustained, with all costs of suit.

When under-farmers, &c. are to be considered to have defaulted.

Sureties not exonerated by the distraint of the property of defaulters.

V*. *Under-farmers*, ryots, *and dependant* talookdars, *shall not be considered to have defaulted until the arrears have been ineffectually demanded from them, and also from their surety, if they shall have given security, and the surety shall be forthcoming*; and when, as the last resource, an attachment shall be issued against the property of a defaulter, the responsibility of the surety shall not be thereby in any degree diminished.

Penalty for attaching property, if no arrear be due.

VI. If any person vested with the power of distraint shall attach, or cause to be sold, the property of any under-farmer, *ryot*, or dependant *talookdar* for arrears of rent or revenue, and it shall appear upon trial that no arrear was due, the distrainer shall be compelled to restore the property to the owner, or to make good to him the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay to him as damages a sum adequate to the value of such property, and all costs of suit.

Attachment not to take place, if the defaulter shall tender the arrears upon demand.

VII. If the defaulter shall tender the arrears demanded of him in the presence of two creditable witnesses to the person deputed to attach his property, such person shall receive the arrears, and shall not proceed to the attachment.

Distrainers to furnish the person they may depute to distrain with a writing, specifying the amount of the arrear, and the date on which it became due.

Copy of the writing, with list of the property distrained, name of the place where it is lodged, and notice that it will be sold, indorsed thereon, to be delivered to the defaulter, or left at his place of residence in case of his absence.

VIII. Distrainers shall deliver to the person whom they may depute to attach the property of a defaulter, a writing under their seal and signature, specifying the amount of the arrear for which the attachment may be issued, and the date on which such arrear became due. The person so deputed shall produce this writing as his authority for making the attachment, and on the day on which he may attach the property, shall deliver a copy of it to the stated defaulter, endorsing thereon a list or inventory of the property attached, and the name of the place where it may be lodged or kept, with a notice that it will be sold on the fifteenth day commencing from the day following the day on which the attachment took place; or, if the property attached shall consist of crops or other ungathered products of the earth, within fifteen days calculating from the day following the day on which such crops or products may be stored as directed in section 13, unless the arrear and expences of the attachment shall be previously discharged, or he shall contest the demand, and procure the

* This part of the section rescinded by Sect. 3. Reg. VII. 1799.

attachment to be withdrawn in the manner hereafter specified. If the defaulter shall be absent, a copy of the above writing with the prescribed endorsement shall be fixed up or left at his usual place of residence, before the expiration of the third day calculating from the day of the attachment. If any person vested with the power of distraint shall cause any property to be attached without furnishing the agent whom they may employ for that purpose with the writing above directed, or if such agent shall be furnished with the writing prescribed, and shall omit to deliver a copy of it with the required endorsement to the defaulter, or, in the event of his absence, to leave such copy at his usual place of residence within the period limited, the distrainer shall not be entitled to recover the arrear for which the distress may have been levied, and he shall be compelled to restore the property to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay all costs of suit.

Penalty.

IX. If an attachment for arrears shall have been issued against the property of any under-farmer, *ryot*, or dependant *talookdar*, who may not have given security to the distrainer for the payment of his rent or revenue, and such under-farmer, *ryot*, or dependant *talookdar* shall dispute the justness of the demand, and within five days commencing from the day following the day of the attachment, or, if the property attached shall consist of crops or other ungathered products of the earth, within five days calculating from the day following the day on which such crops or products may be stored as directed in Section 13, shall enter into a bond before the judge of the *zillah*, the *cauzy* of the *pergunnah*, or the distrainer, with good security, binding himself to institute a suit in the *dewanny adawlut* of the *zillah* within fifteen days from the date of such bond for the trial of the demand, and to pay whatever sum may be adjudged to be due from him, with interest upon it at the rate of twelve per cent. per annum, to be calculated from the date on which the arrear that may be awarded became payable to the date of the decree, with all costs of suit, the distrainer shall immediately withdraw the attachment and restore the property to the defaulter. If the stated defaulter shall fail to execute the bond within the period prescribed, the distrainer shall be at liberty to keep the property under attachment, and to cause it to be sold in the manner directed in Section 22, unless the arrear with the expences of the attachment shall be discharged previous to the day of sale. If the defaulter shall execute the bond, but omit to institute the suit in the *dewanny adawlut* by the time prescribed, the distrainer shall demand payment of the arrear from the surety, and in the event of his not discharging the amount immediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, and to cause it to be sold, unless the arrear and the expences of the attachment shall be discharged previous to the day of sale.

Under-farmers, &c. who have not given security for their rent or revenue, and who may contest the arrear, how to procure the attachment of their property to be withdrawn.

To execute a bond, with security, to try the demand in the *dewanny adawlut* of the *zillah* in fifteen days.

Attachment to be withdrawn upon the execution of the bond.

Distrainer how to recover the arrear, upon the defaulter failing to institute the suit by the time limited in the bond.

X. If an attachment for arrears shall have been issued against an under-farmer, *ryot*, or dependant *talookdar*, who may have given security for the payment of his rent or revenue, and such under-farmer, *ryot*, or dependant *talookdar*, shall dispute the justness of the demand, and the surety within five days commencing from the day following the day of the attachment, or, if the property attached shall consist of crops or other ungathered products of the earth, within five days calculating from the day following the day on which such crops or products may be stored as directed in Section 13, shall deliver a writing, attested by two witnesses, to the judge of the *dewanny adawlut*, the *cauzy* of the *pergunnah*, or the distrainer, engaging that either he or the stated defaulter will institute a suit in the *dewanny adawlut* of the *zillah*, within fifteen days from the date of such writing, to try the demand, and to pay the amount that may be adjudged against them, with interest upon it at the rate of twelve per cent. per annum, to be calculated from the date on which the arrear that may be awarded became payable to the date of the decree, with all costs of suit, the distrainer shall immediately withdraw the attachment. If the surety shall fail to execute such writing within the prescribed period, the distrainer shall continue the property under attachment, and cause it to be sold in the manner directed in Section 22, unless the arrear and the expences attending the attachment shall be discharged previous to the day of sale. If the surety shall execute the writing, but fail to have the suit instituted either in his own name or that of the defaulter within the limited period, the distrainer shall demand payment of the arrears from the surety, and in the event of his omitting to discharge the amount immediately,

Under-farmers, &c. who have given security for their rent or revenue, and who may contest the arrears, how to procure the attachment to be withdrawn.

Surety to execute writing to try the demand in the *dewanny adawlut* within fifteen days.

Attachment to be withdrawn upon the execution of the writing.

Distrainer how to recover the arrears, upon both surety and defaulter failing to institute the suit by the time limited in the bond.

mediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, and to cause it to be sold in the manner directed in Section 22, unless the arrears and the expence attending the attachment shall be discharged prior to the day of sale. If the surety of the stated defaulter shall refuse or omit to enter into the writing required, or if he shall happen to be at a distance, so as to render it impossible for him to execute such writing within the prescribed time, and such defaulter in either of these cases shall give the security required from the defaulters specified in Section 9, the distrainer shall withdraw the attachment, and as far as regards the said arrear, such distrainer, defaulter, and surety, shall be considered in every respect in the same predicament as the distrainers, defaulters, and sureties mentioned in the said section. Landholders and farmers of land are prohibited distraining or selling the property of the sureties of their under-farmers, *ryots*, and dependant *talookdars*, (nominal sureties excepted as described in Section 27,) under any pretext whatever, but in the cases specified in this section and in Section 9. In all other cases, landholders and farmers of land are to have recourse to the *dewanny adawlut* of the *zillah* for the recovery of any claims which they may have on the sureties of their under farmers, *ryots*, or dependant *talookdars*. If any person shall distrain or sell the property of a surety, excepting in the cases above authorised, such surety, provided he be desirous thereof, shall be discharged from his engagement, and the distrainer shall be compelled to restore the property to him, or to pay to him the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, with all costs of suit.

Under-farmers, &c. how to proceed to get the attachment withdrawn, in case of the absence of the surety, or of his refusing to execute the writing required.

Property of sureties not liable to distraint or sale except in the cases herein authorised.

Claim on sureties in other cases how to be removed.

Penalty for the illegal distraint or sale of the property of sureties.

XI. If the defaulter shall tender payment of the arrear demanded of him in the presence of two creditable witnesses after his property shall have been attached, and prior to the day fixed for its being put up to sale, and also of the necessary expences attending the attachment, the distrainer shall receive the amount of such arrear and expences, immediately upon the same being tendered, and shall forthwith release the property. In case of any dispute arising respecting the expences of the attachment, it shall be determined by the *cauzy* of the *pergunnah* in which the distress may have been levied. The courts of *dewanny adawlut* are, upon complaint made to them, to punish any distrainer who may act contrary to this regulation, by awarding against him in favour of the party injured, damages according to the circumstances of the case, with all costs of suit.

Attachment to be withdrawn, if the defaulter shall tender the arrear and expences of attachment previous to the day of sale.

Penalty.

XII. Distrainer shall not drive or convey distrained cattle or other property out of the limits of the *pergunnah* in which it may have been attached. The distrainer shall either leave the property upon the premises in the charge of any person he may think proper, or drive or convey it with due care to a proper place as near as possible to the premises, within the limits of the *pergunnah*.

Property distrained not to be taken out of the *pergunnah*. Where to be kept.

XIII. Distrainers who shall attach the crops or any ungathered products of the earth belonging to their under-farmers, *ryots*, or the *talookdars* paying revenue through them, shall cause such crops or products to be reaped or gathered in due season, and store the same in proper houses, barns, or granaries upon the premises; or, if there shall be no such places on the premises, in any barn or proper place which can be procured as near thereto as possible within the limits of the *pergunnah*. The expence of reaping or gathering and storing such crops or products shall be paid by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Distrained crops and ungathered products of the earth when to be reaped or gathered, and where to be stored.

XIV. Distrainers shall not work the bullocks or cattle, or make use of the goods or effects distrained. They shall provide the necessary food for the cattle or live stock, the expence attending which shall be paid by the owner upon his redeeming the property, or from the proceeds of the sale, in the event of its being sold.

Distrained cattle not to be worked, nor goods or effects used. Distrainers to provide food for cattle or live stock. Expence how to be defrayed.

XV. If property distrained shall be stolen, or lost, or be damaged, injured, or destroyed by the weather or otherwise, whilst in the possession of the distrainer, owing to his not having taken the necessary precautions for the due keeping and preservation of it, he shall make good the loss or damage to the owner.

Penalty for distrainers neglecting to take due care of the property distrained.

XVI. The distress levied shall not be excessive, or in other words, the property seized shall be as nearly as possible proportionate to the amount of the arrear. If any person vested with the power of distraint shall attach any property the value of which shall be disproportionate

Distress to be proportionate to the arrear. Penalty for excessive distress.

tionate to the arrear, and it shall be proved that he could have seized other property of less value, and which would have been sufficient for the liquidation of such arrear, the court of *dewanny adawlut* shall award to the owner damages according to the circumstances of the case, with all costs of suit.

Distress to be levied between sunrise and sunset.

XVII. All attachments shall be made after sunrise and before sunset. If any person vested with the power of distraint shall seize or attempt to seize the property of any defaulter after sunset and before sunrise for the discharge of arrears of rent or revenue, such distrainor shall not be entitled to recover the arrear; and, if the property shall have been attached, shall be compelled to restore it to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, with all costs of suit.

Penalty for attaching property after sunset and before sunrise.

Transfer of a defaulter's property to prevent distraint invalid.

XVIII. If any under-farmer, *ryot*, or dependant *talookdar*, shall make a fraudulent conveyance or transfer of his property to prevent the attachment of it for arrears, the court of *dewanny adawlut*, upon proof thereof being made before it, shall cause the property to be delivered up to the distrainer, and compel the person to whom such transfer or conveyance shall have been made, to pay to the distrainer damages adequate to the value of one-half of the property, with costs of suit.

Penalty for persons to whom such transfers may be made.

Punishment for under-farmers, &c. resisting an attachment, or forcibly or clandestinely taking away their property after it has been attached.

XIX. If any under-farmer, *ryot*, or dependant *talookdar*, shall resist the attachment of his property, or shall forcibly or clandestinely take it away after it shall have been attached, the court of *dewanny adawlut* shall cause him and all persons who may be proved to have been his aiders or abettors, to be imprisoned in the jail until he shall restore the property to the distrainer, or the arrear shall have been liquidated by the distraint and sale of other property, or otherwise discharged, with the expences attending the attachment, and costs of suit.

Punishment for persons not being the owners, forcibly or clandestinely taking away property which has been attached.

XX. If any person, not being the owner, shall be convicted of forcibly or clandestinely taking away property that has been distrained, the court of *dewanny adawlut*, upon proof thereof being made before it, shall cause such person or persons to be imprisoned until they restore the property, or make good the value of it to the distrainer, and pay to him as damages, a sum equal to the value of such property, and all costs of suit.

What places distrainers may force open to attach the property of defaulters.

XXI. Distrainers are empowered to force open any stable, cow-house, barn, *golah*, granary, or other building, and to enter any dwelling-house, the outer door of which may be open, (excepting the apartments in such dwelling-house which may be appropriated for the *zenana* or residence of women,) and to break open the door of any room in such dwelling-house, for the purpose of attaching any property belonging to a defaulter which may be lodged therein. But nothing contained in this regulation shall be construed to authorise persons vested with the power of distraint, or their servants, or agents, to enter the *zenana*, or apartments of women, whether the doors or passages leading thereto be open or not; nor to force open and enter any dwelling-house, the outer door of which may be locked or barred. Persons entering the apartments of women, or forcing open the outer door of any dwelling-house, shall be imprisoned for six months, the distrainer shall not recover the arrear for which the attachment may have been issued, and he shall be compelled to restore to the defaulter any property that may have been attached, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming; and the court shall further award against such distrainer heavy damages, with all costs of suit. And if any person shall enter a dwelling-house, or break open any stable, cow-house, barn, *golah*, granary, or other building, not occupied by or in the possession of the defaulter, to distrain property belonging to him, and no such property shall be found therein, the distrainer shall be liable to prosecution by the occupant or possessor for entering such house, or breaking open such stable or other building, and the court shall award to him damages according to the circumstances of the case, with all costs of suit.

Zenana or women's apartments not to be entered whether the doors be open or shut.

Dwelling-houses not to be forced open.

Punishment for entering women's apartments or forcing open dwelling-houses.

Penalty for entering any dwelling house, or breaking open any place not occupied by or in the possession of the defaulter, should no property belonging to him be found therein.

XXII. After the expiration of the fifth day, and before the elapse of the eighth day, calculating from the day following the day on which the attachment of the property of a defaulter shall have taken place, or, if the property attached shall consist of crops or other ungathered products of the earth, after the elapse of the fifth day, and before the expiration of the eighth day, commencing from the day following the day on which such*

Mode of appraising and selling distrained property.

* Rescinded by Section 4, 5. Reg. XXXV. 1795.

crops or products were stored as directed in Section 13, *the distrainer shall apply to the* causy *of the* pergunnah *to have the same appraised and sold. Upon the receipt of such application, the* causy *shall immediately fix up in the head* cutcherree *of the* pergunnah *a list of the property attached, with a notice of the day on which it will be sold, which shall be the fifteenth day, commencing from the day following the day on which the attachment took place, unless the property shall consist of crops or other ungathered products of the earth, in which case the sale shall be made on the fifteenth day, calculating from the day following the day on which such crops or products may be stored as directed in Section* 13. *The* causy *shall nominate two creditable persons, competent by their profession, trade, or occupation to appraise the property. The persons so appointed shall appraise the property according to the current price which the several articles may then bear in the country, and shall deliver the particulars of the appraisement in writing, and attest the same with their seals and signatures, and shall make oath before the* causy *that they have appraised the property according to the best of their knowledge and judgment. The* causy *shall affix his seal to the paper of appraisement, and shall cause it to be stuck up in the* cutcherree. *The property shall be brought to the* cutcherree *on the morning of the day of sale, in order that it may be examined by the persons intending to bid, unless it shall consist of grain or other products of the earth the removal of which would be attended with considerable expence, in which case samples only indiscriminately taken from each article shall be brought to the* cutcherree *and exposed for the purpose above mentioned. The property shall be put up to sale in one lot, or in two or more lots as the* causy *may think advisable. The sale shall commence at twelve o'clock in the day, and the property shall be disposed of for the highest price that may be offered for it. If the property shall sell for more than the amount of the arrear, the overplus, after deducting the charges attending the attachment and sale of it, shall be returned to the defaulter. If the proceeds of the sale shall be insufficient for the discharge of the arrear and the expences attending the attachment and sale, the distrainer shall be at liberty to attach other property belonging to the defaulter, and to cause it to be sold to make good the deficiency. The* causy *is in every case to examine the distrainer's statement of the expences consequent to the attachment and sale of the property, and to reject any part of it that may appear to him unreasonable. If any person vested with the power of distraint shall sell or dispose of property which he may have attached for arrears of rent or revenue in any other mode than that prescribed in this section, he shall forfeit the arrear for which the distress may be levied to the defaulter, and make good to him the value of the property sold or disposed of, with all costs of suit.*

Surplus of the proceeds of property selling for more than the arrear and expences, how to be appropriated.

Causy to adjust the expences of the sale and attachment. Penalty for disposing of property except as herein authorized.

XXIII. The *causy* is to be careful to prevent any unfair practices either in the appraisement or sale of property. Upon proof being made before the court of *dewanny adawlut* of the *sillah* of his conniving at any such practices, the court shall cause him to make good any loss or injury that the defaulter may have thereby sustained, with costs of suit; and shall immediately report the circumstances of the case to the Sudder Dewanny Adawlut for the information of the Governor General in Council, who, provided there shall appear to him sufficient reason for so doing, shall dismiss such *causy* from his office.

Punishment for causies conniving at unfair practices in the appraisement or sale of property.

XXIV. The distrainer, the *causy*, and the appraisers, are prohibited purchasing directly or indirectly any part of the property. Any *causy* or appraiser offending against this prohibition, shall be compelled to restore the property to the defaulter, or the full value of it, in the event of its being injured, damaged, destroyed, or not forthcoming, and shall forfeit the purchase money, which shall be appropriated to the liquidation of the arrear, and pay all costs of suit; and the court shall report the circumstances to the Sudder Dewanny Adawlut, for the information of the Governor General in Council, who, if there shall appear to him sufficient ground for so doing, shall dismiss such *causy* from his office. Distrainers acting contrary to the prohibition contained in this section shall be compelled to restore the property to the defaulter, or the full value of it, if it shall have been injured, damaged, or destroyed, or shall not be forthcoming, and shall likewise forfeit to him the arrear for which the property may have been attached, and pay all costs of suit.

Distrainer, causy, and appraisers, not to purchase the property.

Penalty.

XXV. Neither the defaulter, nor any person on his behalf, shall be permitted to bid for or purchase the property.

Defaulters not to bid for or purchase their property.

XXVI. The property shall be paid for within five days after the sale, and the purchaser shall not be permitted to carry away any part of it which shall not have been paid for. Should the purchaser fail in the payment of the whole or part of the purchase money by the limited period, the whole of the property, or the part of it which may be unpaid for, shall be resold by the cauny on such day as he shall fix for whatever it may fetch. The defaulting purchaser shall forfeit to the distrainer fifteen per cent. on the amount of the price for which he purchased the property so resold, and make good to him any loss that may arise on the resale. If any profit shall accrue on the resale, it shall be carried to the credit of the defaulter.*

Property sold when to be paid for.

Penalty in case of non-payment of the purchase money.

XXVII. Persons who tenant or underfarm lands in the name of their children, dependants, or others, or in the names of fictitious persons, and give themselves as the ostensible sureties for the performance of the agreement, but retain the actual management of the lands, and in fact are themselves the under-farmers or *ryots* of such lands, shall to all intents and purposes, be considered as the under-farmers or *ryots* of such lands, and their property shall be liable to be distrained and sold for arrears under this regulation, in the same manner as if the engagement for the lands had stood in their own names.

Persons who under the names of sureties farm or tenant lands in the name of others, to be considered the actual *ryots* or farmers of such lands.

XXVIII. Landholders and farmers of land are prohibited confining or inflicting corporal punishment on any under-farmer, *ryot*, or dependant *talookdar*, or their sureties, to enforce payment of arrears of rent or revenue. If any landholder or farmer shall offend against this prohibition, the person so punished or confined, shall be at liberty either to prosecute the offender for assault or imprisonment in the criminal court, or to institute a suit against him in the *dewanny adawlut* of the *zillah*, which court shall award damages against such offender, according to the circumstances of the case, with costs of suit.

Landholders and farmers prohibited confining or inflicting corporal punishment on defaulters or their sureties.

XXIX. In the event of the absence of the *cauny*, or of there being no such officer stationed in the *pergunnah*, the *tehsildar*, or in case of his absence, or, of there being no such officer in the *pergunnah*, then such person as the judge of the *dewanny adawlut* of the *zillah* shall think proper to vest with authority for that purpose, may and shall respectively do all such acts as the *cauny* is authorized or directed to perform by this regulation, and under the like restrictions and penalties, as far as the latter can be inflicted.

What persons are to perform the duties assigned to the *cauny* in the event of his absence, or of there being no such officer stationed in the *pergunnah*.

XXX. Upon the death of any person vested with the power of distraint by this regulation, his heirs or successors who may be entitled to the arrears due to him, shall be at liberty to distrain the property of the defaulters, and their sureties in the cases authorized, for the recovery of the same, agreeably to this regulation. It is to be understood likewise, that managers of the estates of disqualified landholders, and managers of undivided estates belonging to two or more proprietors, all of whom do not come within the description of disqualified landholders, are authorized to exercise the same powers for the recovery of arrears of rent or revenue, as the proprietors of the estates committed to their charge would be entitled to exercise under this regulation, were they to be entrusted with the management of their own estates, subject however to the several rules, restrictions, and penalties therein specified.

Heirs and successors of landholders and farmers to distrain for arrears due to the deceased, if entitled thereto.

Managers of estates of disqualified landholders, and managers of undivided estates, vested with the power of distraint.

XXXI. The several descriptions of landholders and farmers of land, specified in Section 2, are empowered under the restrictions contained in this regulation, to attach and sell the property of persons employed in the provision of the Company's investment, or the manufacture of salt, for the recovery of arrears of rent or revenue, without previously stating the claim to the Company's commercial representative, or to any salt agent, or other officer employed in the salt department. But such distrainers shall within three days, calculating from the day following the day of the attachment, after they shall have attached the property of any weaver or *molungee*, or other person employed in the provision of the Company's investment, or the manufacture of salt, send information of such attachment in writing to the commercial resident or salt agent, or the nearest commercial factory or salt *cutcherree*, that the commercial resident or salt agent may satisfy the demand previous to the time fixed for the sale of the property, or cause such steps to be taken in behalf of the defaulter as may be consistent with this regulation.

Explanatory rule respecting defaulters employed in the provision of the investment, or the manufacture of salt.

XXXII. If any *gomastah*, agent, servant, or officer of any person vested with the power of distraint, shall attach or cause to be sold the property of any under-farmer, *ryot*,

Principals responsible for the acts of their agents.

* Rescinded by Section 6, 7. Regulation XXXV. 1795.

or

or dependant *talookdar*, or their sureties, or do any act in the attachment or sale of it contrary to this regulation, the party aggrieved shall have his remedy against the principal of the offender for such illegal attachment, sale, or act, whether the same took place or was done by the orders or with the knowledge of such principal or not. Provided that nothing contained in this section shall extend to subject a distrainer to imprisonment, in the event of any person deputed by him to attach property, entering the *zenana*, or apartments of women, or breaking open a dwelling-house in opposition to the prohibition contained in Section 21, unless it shall be proved that such acts were done by the order or with the consent or knowledge of such distrainer.

Persons deeming themselves injured by the distraint and sale of their property, may seek redress in the *dewanny adawlut*.

Persons vested with the powers of distraint, to have the option of prosecuting in the dewanny adawlut for arrears.

XXXIII. Nothing contained in this regulation shall be construed to prohibit persons whose property may have been distrained or sold from instituting a suit in the court of *dewanny adawlut* of the *zillah* against the distrainer, for any injury which they may think they have hereby sustained. Nor to prevent the several descriptions of landholders or farmers of land, or other persons vested with the power of distraint, from prosecuting in the court of *dewanny adawlut* of the *zillah* for arrears due to them from any under-farmer, *ryot*, or dependant *talookdar*, or their sureties, should they prefer the last mentioned mode of procedure to distraining and selling the personal property of the defaulter, or, in the cases authorized, of his surety, for the recovery of the arrears under this regulation.

Suits instituted under this regulation, to be tried in preference to all other suits.

XXXIV. All suits that may be instituted under this regulation are to be heard and determined previous to any other suits which may be depending.

A. D. 1793. REGULATION XLV.

A REGULATION *for disposing of Malguzaree and Lakheraje Lands at public Sale, pursuant to Decrees of the Courts of Justice.*—PASSED *by the Governor General in Council on the* 1*st May* 1793; *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fusily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

IN cases in which portions of estates may be ordered to be sold in satisfaction of decrees of the courts of judicature, it is necessary for the security of the public revenue that the *jumma* to be charged on the lands directed to be disposed of, should be adjusted agreeably to the principles prescribed in Section 10, Regulation I. 1793. The Board of Revenue and the collectors being in possession of the accounts and information necessary for the adjustment of the *jumma*, and as the superintending the details of the attachment and sale of lands would necessarily occupy much of the time of the courts, and often occasion a delay in the enforcement of the decree, and it being necessary that Government should have the means of compelling the proprietors to furnish the requisite accounts and information for enabling the public officers to apportion the *jumma*, and that the courts by which the decrees may have been passed, or to which the enforcing of them may be committed, should be vested with a power of countermanding or postponing the sale in the event of the amount of the decree being discharged previous to the sale being made, or for other cause that may appear to them sufficient, the following rules have been accordingly enacted.

Copy and translate of decrees, to be enforced by the sale of *malguzaree* lands, to be transmitted to the Board of Revenue.

II. When a court of civil judicature shall have occasion to have recourse to the sale of lands paying revenue to Government, in satisfaction of a decree, the court by which the decree is to be enforced, is to transmit a copy of the decree, without any other part of the proceedings, and a translate of it in English, to the Board of Revenue.

Board of Revenue to proceed to the sale of the lands without delay.

III. The Board of Revenue are to proceed with all practicable dispatch to dispose of such portion of the lands of the party against whom the decree may be given, as may be sufficient to make good the amount of it. The Board are to cause the lands to be disposed of at the presidency, or in the *zillah* in which the lands may be situated, according as they may deem most advantageous for the proprietor. The Board are to report for the information of the Governor General in Council, all orders for sales of lands which they may issue under the powers vested in them by this regulation, immediately on the same being issued by them.

Orders for sales of lands to be reported to the Governor General in Council.

Public revenue to be charged on the lands sold, to be fixed agreeably to Section 10. Regulation I. 1793.

IV. The public *jumma* or revenue to be charged on the portion of any estate ordered to be put up to sale, is to be adjusted agreeably to the principles prescribed in Section 10, Regulation I. 1793.

Board of Revenue empowered to order the attachment of lands directed to be sold.

V. The Board of Revenue are empowered, in cases in which it may appear to them expedient, to direct the collector to attach the lands ordered to be sold, by deputing an *ameen* to take charge of them, or by placing them under the nearest *tehsildar* or other revenue officer. The officer to whom the lands may be committed is to collect the rents and revenues, to prevent waste being committed by the proprietor, and to furnish any information that may be required for the adjustment of the *jumma*.

Expences of the attachment and sale to be defrayed by the proprietor.

VI. The expences attending the attachment and sale of the lands, after being approved by the Board of Revenue, are to be charged to the account of the proprietor, and are to be defrayed either from the collections made from the lands, or from the proceeds of the sale, if the collections shall be insufficient for that purpose.

Proprietor of the lands may appoint officers to keep counterparts of the *ameen's* accounts.

Rules to be observed by the *ameen* in making the collections.

VII. The proprietor of the lands to be sold may appoint his *dewan*, or any other person whom he may think proper, to keep a counterpart of the accounts of the receipts and disbursements of the *ameen*. The *ameen* is to collect according to the engagements that may subsist between the proprietor and his dependant *talookdars*, under-farmers, and *ryots*, and is not to make any alterations whatever in such engagements, or exact more than the amount specified in them, whether they be conformable to Regulation XLIV. 1793, or not; and he shall be liable to a prosecution in the *dewanny adawlut*, for any alteration or infringement of such engagements in opposition to this section. In cases in which no engagements may exist between the proprietor and his dependant *talookdars*, under-farmers, or *ryots*, the *ameen* is to collect from them according to the established rates and usages of the *pergunnah*. The *ameen* shall likewise be subject to a prosecution by the proprietor or farmer of the estate for embezzlement, or injuries done to the estate or farm during the time that the collection of the rents and revenues of it may be entrusted to him.

Rules in the preceding section applicable to *tehsildars* or other officers appointed to take charge of the lands ordered to be sold.

VIII. The rules in the preceding section with regard to *ameens*, are to be considered equally applicable to *tehsildars* or other officers to whose charge lands ordered to be sold may be committed.

Punishment for resisting or causing to be resisted, the officer deputed to attach the lands to be sold.

IX. If a proprietor, or (if the lands be let in farm) a farmer, or his surety, shall resist, or cause to be resisted, the *ameen* or other officer whom the collector by the authority of the Board of Revenue may direct to attach lands ordered to be sold, the collector is to proceed against the offender in the manner in which he is directed in Regulation XIV. 1793, to proceed against proprietors, and farmers, or their sureties, who resist the process which he may issue under Section 5 of that regulation; and all the rules contained in that regulation, respecting proprietors, farmers, or sureties, who may resist or cause to be resisted the process issued by collectors under that section, are to be considered applicable to proprietors, farmers, or sureties, who may resist or cause to be resisted, the officer who may be ordered by the collector to attach their lands under Section 5 of this regulation. Any other descriptions of persons guilty of the offence specified in this section, shall be subject to the same process and punishment as sureties so offending.

Penalty for proprietors or farmers who may not attend, or depute an agent, with the accounts and information necessary for the adjustment of the *jumma*.

X. The proprietor, or (if the lands be let in farm) the farmer of the lands ordered to be sold, upon receiving a written order for that purpose from the collector under his official seal and signature, shall attend the *ameen* or other officer in person, or order an agent duly empowered and informed, to attend him, if the collector shall deem it sufficient to require the attendance of an agent only, with any accounts of the collections and *jumma* of the lands ordered to be sold, or the estate of which they may form a part, for the purpose of adjusting the *jumma* at which the lands are to be disposed of. If the proprietor or farmer shall omit or refuse to attend, or to cause an agent of the description above specified, to attend by the time prescribed in the collector's requisition, with the accounts and information required, the Board of Revenue are empowered to impose such daily fine upon him until he complies with the collector's requisition, as they may think adequate to his situation and circumstances in life, reporting however the amount for the confirmation of the Governor General in Council. The fine is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

Proprietors and farmers to cause the attendance of the *putwarries* and *zemindary* officers on the *ameen* or officer, on receiving a written requisition to that effect from the collector.

XI. The proprietor or farmer shall likewise cause the *putwarries* to attend the *ameen*, or other officer, to assist him in making the collections, and for the purpose of furnishing him with the accounts and information necessary for adjusting the *jumma* as required by Section 62, Regulation VIII. 1793, as well as any other of the *zemindaree* officers whose assistance or attendance may be required for the above purposes, upon receiving a written requisition from the collector to that effect; and in the event of his omission or refusal, he shall be subject to the same penalty as for the breach of the rules in the preceding section.

Publication of the sale, where to be made, how

XII. Previous to any sale of land taking place, a publication is to be made in the Persian and Bengal languages, if the lands shall be situated in Bengal or Orissa, or, in the

Persian language and in the Hindoostanee language and Nagree character, if the lands shall lie in Behar, specifying the *jumma* at which the lands or the several lots of them, if they are ordered to be sold in two or more lots, are to be disposed of, and the place, date, and hour of the day fixed for the sale, and the proportion of the revenue payable on account of the year in which the sale of the lands may take place, for which the purchaser is to be responsible, or, if the exact proportion cannot be ascertained, the rules by which the amount of it is to be adjusted. The publication is to be fixed up in some conspicuous place in the court-room of the *dewanny adawlut* of the *zillah*, the office of the collector, the principal town or village in the lands to be sold, and the office of the secretary to the Board of Revenue. The publication is to be fixed up at the several places above mentioned for a term not less than one month before the sale takes place. The other conditions of sale contained in Sections 13 and 14, as well as any other stipulations that may be made, are to be fixed up in a conspicuous part of the room in which the sale may be directed to take place, on the day of sale, and during the three days preceding it.

Being to be fixed up, and what it is to contain.

Other conditions of sale to be fixed up in the room in which the sale is to take place.

XIII. A deposit of five per cent. on the amount of the purchase money is to be made at the time of the sale by the purchaser of the lands. If the purchaser shall omit to discharge the purchase money within the period which may be stipulated, he is to forfeit the deposit to Government, and the lands are to be resold at such purchaser's expence. If the lands shall be disposed of at a lower price than that offered by the first purchaser, he is to make good the deficiency. If a profit shall arise on the second sale, it is to be carried to the credit of the proprietor.

Deposit of five per cent. to be made by the purchaser at the time of the sale.

Consequences of not paying the purchase money by the limited time.

XIV. If the first purchaser shall refuse or omit to make the deposit, or to pay within the required time the amount of the deficiency and the expences arising on the resale, after being served by the collector of the *zillah* in which he may be or reside, or by the Board of Revenue, if he shall be in Calcutta, with a written demand for the amount, similar to that directed in Section 3, Regulation XIV. 1793, to be served on proprietors and farmers of land from whom arrears of revenue are due, the amount shall be levied from him by the same process as is prescribed for enforcing decrees of the courts of judicature.

First purchaser how to be proceeded against, in the event of his omitting to make the deposit, or to pay any deficiency or expences arising on a resale.

XV. The purchasers of land sold under this regulation, are not to be held responsible for any arrears or suspensions of revenue that may be due to Government from the lands prior to the year in which the purchase may be made, unless it shall be otherwise stipulated in the conditions of sale. Arrears or suspensions not so stipulated to be made good by the purchaser, are to be paid from the proceeds of the sale, or by the former proprietor, or recovered by the prescribed process against any other property which he may possess, or against both his property and person if necessary. Arrears of rent or revenue that may be due to the former proprietor from his dependant *talookdars*, under-farmers, or *ryots* preceding the date on which the lands may be sold, are to belong to him, and are to be recoverable by him by suit in the *dewanny adawlut* of the *zillah*. The defaulting proprietor, however, shall be at liberty to transfer his right to such arrears to the new proprietor.

Purchasers not to be responsible for arrears or suspensions of revenue, unless otherwise stipulated.

By whom arrears and suspensions of revenue are to be made good.

Rule respecting arrears of rent or revenue due to the former proprietor.

XVI. Where a sale of the lands of any person shall have been ordered to take place in satisfaction of a decree, the court by which the decree may have been passed, or to which the enforcing of it may be committed, is empowered, in the event of the amount of the decree being discharged, or for other cause that may appear to them sufficient, to countermand or postpone the sale, by issuing a precept to that effect to the collector, if the lands shall have been ordered to be sold by the collector, or by an address to the Board of Revenue, if the lands shall have been directed to be sold by them, in which precept or address, the court shall state their reasons for ordering the sale to be countermanded or postponed, and in the latter case, if it shall appear to them proper so to do, they may prescribe a date for the sale of the lands. The Board of Revenue and the collector are to conform to the requisitions of such precepts or addresses from the courts for countermanding or suspending the sale of lands.

Courts empowered to countermand or postpone sales of lands, ordered to be made in satisfaction of decrees.

XVII. The rules in the preceding sections are to be considered applicable to lands held exempt from the payment of revenue to Government as far as they may be applicable to the circumstances thereof, with this addition, that the purchaser of such exempted lands is to be considered as having succeeded only to the rights of the former proprietor, and that the transfer

Rules in the preceding sections to be applied to lands held exempt from the payment of revenue to Government, as far as they are applicable.

Transfer of such exempted lands by public sale in liquidation of decrees not to affect the rights or claims of Government.

transfer is not to bar any claims of Government for the recovery of the public dues from such lands under Regulations XIX. and XXXVII. 1793, or any other regulation that may be hereafter enacted.

Transfer of lands to be entered in the public registers.

XVIII. When the sale of the lands shall have taken place, the collector is to cause the entries of the transfer to be made in the public registers, as prescribed in Regulations XIX. XXXVII. or XLVIII. 1793, according to the description of the property transferred.

A. D. 1794. REGULATION III.

A REGULATION *for exempting Proprietors of Land (with certain Exceptions) from being confined for Arrears of Revenue; and for prescribing the Process by which Tehsildars are to demand Payment of Arrears; and for enabling the Collectors to recover from native Officers employed under them, public Money or Papers which they may embezzle or retain; and for expediting the Trial of Causes relating to the public Revenue or the Rents of Individuals.*—PASSED *by the Governor General in Council, on the* 14*th March* 1794; *corresponding with the* 3*d Chyte* 1200 *Bengal era; the* 28*th Phaugun* 1201 *Fusily; the* 3*d Chyte* 1201 *Willaity; the* 28*th Phaugun* 1850 *Sumbut; and the* 11*th Shabaan* 1208 *Higeree.*

Preamble.

FROM the earliest times, the rulers of these provinces have exercised a discretionary power of confining proprietors of land who have failed in the discharge of the public revenue, in addition to attaching and disposing of their property to make good the deficiency. The Governor General in Council, considering their property alone a sufficient security for the public dues, and being solicitous to refrain from every mode of coercion not absolutely necessary for realising them; and instances having occurred of *sezawuls*, *tehsildars*, *ameens*, and other native officers, withholding the public money, or omitting to attend the collectors to adjust their accounts, or retaining papers which came into their possession in their official capacity; and it being necessary that the collectors should have the means of recovering the public dues and papers from such persons; and it being essential to the punctual collection of the revenue, and the encouragement of agriculture, that all causes between Government and its subjects, and between individuals, regarding revenue or rent, should be determined as expeditiously as possible, the Governor General in Council has passed the following rules.

Proprietors and farmers of land to pay the *last* of each month on or before the 1st of the following month, without waiting for its being demanded.

II. Every proprietor of land (which designation, whenever it occurs in any regulation, is to be considered to include *zemindars*, independent *talookdars*, and all actual proprietors of land who pay the revenue assessed upon their estates immediately to Government) and farmer of land, is to cause the whole of the instalment for each month to be paid into the treasury of the collector of the *zillah*, or to the *tehsildar*, or other officer who may be appointed to receive the public revenue assessed on his estate or farm, on or before the first day of the following month, without waiting for the amount being demanded by the collector, or the *tehsildar*, or other officer.

Proprietors of land not to be liable to be confined for arrears.

Exceptions to the rule.

Arrears how to be recovered

How arrears are to be demanded.

III. Proprietors of land shall not be liable to be confined for arrears of public revenue, or for any demand, of the nature of those specified in Section 40, Regulation XIV. 1793, excepting in the cases mentioned in Section 14. Arrears due from proprietors of land, are to be recovered in the manner hereafter prescribed.

IV. If the whole, or the portion of the instalment, due from a proprietor of land on account of any one month, shall remain undischarged on the fifteenth of the following month,*

* This and the three following sections are rescinded by Section 22, Regulation VII. 1799.

Penalty for not discharging them.

the collector is to require payment of the arrear in the manner prescribed in Section 3, Regulation XIV. 1793, and to apprize him by a notice inserted in the written demand, that in the event of his not discharging it by the limited time, he will be subjected, as a penalty, to the payment of an interest of twelve per cent. per annum, on the amount of the arrear under Section 7, Regulation XIV. 1793.

Collector how to proceed, in the event of the proprietor not discharging the demand.

Board of Revenue to order the lands of the defaulter to be sold, without waiting for the previous sanction of the Governor General in Council.

But to obtain his sanction after the advertisement has been published, and not to proceed to the sale without it.

V. If a proprietor of land, after having been served with a written demand for an arrear as prescribed in Section 4, shall not discharge the amount of it by the limited time, the collector is to submit to the Board of Revenue a statement of such of his lands as he may think it advisable to have sold to make good the amount. The Board of Revenue are to cause the lands specified in the statement, or any other lands belonging to the defaulter which they may deem it preferable to dispose of, to be put up to sale agreeably to the rules prescribed for disposing of lands for arrears of revenue, with this alteration, that instead of deferring the publication of the advertisement for the sale of the lands until they have obtained the sanction of the Governor General in Council to the sale, they are of their own authority to direct the advertisement prescribed in Section 26, Regulation XIV. 1793, to be published. They are, however, immediately after, to report the amount of the arrear, the lands ordered to be sold, the jumma *at which they are to be disposed of, and the place of sale, to the Governor General in Council, so as to obtain his sanction to the sale previous to its being made, without which sanction it is not to take place. The collectors are accordingly enjoined never to proceed to the sale of any lands, until they have received notice through the Board of Revenue that the Governor General in Council has sanctioned the sale.*

Proprietors whose lands are ordered to be put up to sale, to pay the penalty in Section 4, although they should discharge the arrear.

Lands ordered to be put up to sale, to be disposed of for whatever arrears may be due from the proprietor up to the day of sale.

VI. If a proprietor whose lands may have been advertised for sale under the preceding section, shall discharge the arrears at any time previous to the day of sale, he shall nevertheless pay the penalty specified in Section 4.

VII. As it may often occur, that after lands belonging to a defaulting proprietor have been put up to sale, further arrears may become due from him previous to the day of sale, and consequently that notwithstanding he may have discharged the whole of the original arrear, a considerable balance may still be outstanding against him, it is declared, that when the lands of a proprietor are put up to sale to make good an arrear, they shall be liable to be sold on the day fixed, for the discharge of all arrears that may be due from him up to the day of sale, whether they shall have accumulated prior or subsequent to the lands being advertised for sale, including the penalty prescribed in Section 4.

Tuccavy, &c. are to be recovered in the same manner as arrears of revenue.

VIII. Arrears due from proprietors on account of advances made to them by Government for any of the purposes specified in Section 40, Regulation 14, 1793, are to be recovered by the same process as balances of revenue.

Board of Revenue empowered to order the collector to attach lands directed to be sold, under the rules prescribed in Sections 6. and 25, Regulation XIV. 1793.

IX. When the lands of a proprietor are ordered to be sold for the discharge of arrears, the Board of Revenue are empowered, in cases in which they may deem it expedient so to do, to order the collector to attach the lands, and commit them to the charge of an* ameen, *or a* tehsildar, *or other officer, under Sections 6. and 25, Regulation XIV. 1793, for the purposes therein specified. But the collector is not to attach the lands under those sections, without receiving previous directions from the Board of Revenue to that effect.*

Proprietors resisting the officers deputed by the collector under Section 9, to be proceeded against in the same manner as when resisting the process issued against them under Section 5, Regulation XIV. 1793.

X. If a proprietor of land shall resist, or cause to be resisted, the ameen *or other officer whom the collector, by the authority of the Board of Revenue, may depute to attach his lands, the collector is to proceed against him in the manner in which he is directed by Regulation XIV. 1793, to proceed against proprietors who resist the process which he may issue under Section 5, of that regulation, to take their persons into custody; and all the rules contained in that regulation respecting proprietors who may resist, or cause to be resisted, the process issued by collectors under that section, are to be considered applicable to proprietors who may resist, or cause to be resisted, the officer who may be deputed by the collector to attach their lands under Section 9. of this regulation.*

Sections 9, 10, 11, 14, and 22, of Regulation XIV. 1793, repealed.

XI. There being ground to believe that many proprietors and farmers of land have availed themselves of the rules in Sections 9, 10, 11, 14, and 22, Regulation XIV. 1793, to

* This and the following section are rescinded by Section 22, Regulation VII. 1799.

withhold payment of the public dues, and the persons of proprietors of land being no longer liable to be confined for arrears, excepting in the cases specified in this regulation; Sections 9, 10, 11, 14, and 22, of Regulation XIV. 1793, are rescinded, and proprietors and farmers of land shall be bound to discharge all sums that may be demanded of them by the collector on the part of Government in the manner prescribed in Section 3, Regulation XIV. 1793, under pain of being proceeded against for such sums as for arrears.

Proprietors and farmers of land how to recover sums exacted from them beyond their engagements.

XII. That proprietors and farmers of land may be enabled to recover sums that may be exacted from them by the collector on the part of Government, above what they may be bound to pay by their engagements, and that they may be indemnified from all loss they may sustain by such exactions, it is declared, that if a collector shall demand a sum of money from a proprietor or farmer of land, on account of arrears in the manner prescribed in Section 3, Regulation XIV. 1793, and the proprietor or farmer shall deny, by a writing to that effect addressed to the collector, the justness of the whole or a part of the demand, but to prevent any further process being issued against him, shall discharge the whole of the demand, the proprietor or farmer shall be at liberty to sue the collector in the *dewanny adawlut* of the *zillah* for the recovery of the sum which he may consider to have been unjustly taken from him, and the court shall give judgment in favour of the complainant for all such sums as may be proved to have been unduly exacted from him, and the amount of such judgment shall be refunded to him from the public treasury of the *zillah*, with interest at the rate of twelve per cent. per annum, from the date of the exaction, to the date of the decree. All the rules in Regulation XIV. 1793, respecting suits instituted against a collector for sums actually received by him on the part of Government from any proprietor or farmer of land, or from the surety of any farmer, are to be considered applicable to suits that may be instituted against a collector under this section.

What rules in Regulation XIV. 1793, are to be considered applicable to suits instituted against the collector under this section.

How *tehsildars* or other public officers are to require payment of arrears from proprietors or farmers paying revenue to them.

XIII. When arrears shall become due from proprietors or farmers of land, whose revenue may be made payable to a *tehsildar*, or other officer appointed by Government to collect it, such officer is to demand the payment of the arrears by the same process as collectors are required to observe in requiring the discharge of arrears by Section 3, Regulation XIV. 1793. If the defaulter shall not liquidate the arrears by the prescribed period, the *tehsildar* or other officer is to report the amount of the arrear to the collector, who is to proceed to the recovery of it by the same process as he is directed to observe in recovering arrears due from proprietors or farmers paying revenue immediately to the treasury of the *zillah*.

Cases in which proprietors of land are liable to be imprisoned under Regulation XIV. 1793.

XIV. If the whole of the lands of a proprietor shall be sold for the discharge of arrears of revenue, or any of the demands specified in Section 40, Regulation XIV. 1793, and the proceeds of the sale shall not be sufficient to make good the arrears, or, if the lands of a defaulting proprietor shall be put up to sale, and no person shall offer to purchase them; in the first case, the person of the defaulter and any personal property which he may possess, and in the second, his person and property of every description, shall be liable for the balance to the operation of all the rules regarding defaulting proprietors contained in Regulation XIV. 1793, excepting the rules in the several sections of that regulation which are rescinded by Section 11. Whenever a collector may confine a proprietor under this section, after all his lands have been disposed of, he is immediately to report the circumstances to the Board of Revenue, who are to submit them for the information of the Governer General in Council.

Collector to inform the Board of Revenue when he may confine a proprietor after his lands have been sold.

Collectors to take security for the personal appearance of the native officers herein specified.

Conditions to which the surety is to be bound.

XV. The collectors are to take security for the personal appearance of the *tehsildars*, *sezawuls*, *ameens*, *dewans*, *serishtadars*, *moonshees*, *mohurrirs*, and all native officers, entrusted with the receipt or payment of public money, or the charge of public accounts, who now are, or may be hereafter employed under them, in their capacity of collectors of the revenue. The surety is to bind himself to produce the officer for whom he may become security before the collector, whenever his attendance may be required, until he shall be discharged from the public service, and shall have received a writing from the collector, signifying that he has no demand upon him on the part of Government, either for money, papers, or accounts, belonging to the public, that may have been committed to him, or come into his possession in his official capacity; and further, that in the event of his not producing such officer, he will be responsible for all demands that the collector may have upon him for public money, papers, or accounts, and be liable to be proceeded against in every respect in

the same manner as the officer himself, had he been forthcoming. When any such officer is removed, or resigns, the collector is to grant him an acquittal to the above effect, after he shall have delivered up all public papers, accounts, or money, that may have been committed to his charge. The collectors may require such officers to give new sureties, in cases in which they may have ground to believe that the former sureties, whether admitted by themselves or their predecessors, are not responsible.

Collectors how to proceed to recover public money or accounts in the possession of native officers.

XVI. If a collector shall have a claim on the part of the Government on any of the native officers described in the preceding section, for a balance of accounts, or money or papers belonging to Government, he is to require the payment of the money, or the delivery of the papers, by a writing under his official seal and signature, and the signature of his *dewan*, or other head native officer of his *duftur* for the time being, specifying the amount of the money, or the particular papers required, and the date and place that may be fixed for the delivery of the money or papers. If the officer shall not discharge the money, or deliver up the papers by the limited time, the collector is empowered to apprehend him, and convey him to the jail of the *dewanny adawlut* of the *zillah*, the judge of which court shall detain him in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers. The collector is authorized likewise to attach such part of the real or personal property belonging to the officer, as may be sufficient to make good the sum which may be due from him. If his property shall be in another *zillah*, he is to apply to the collector of that *zillah*, who shall cause it to be attached. If the property shall be within the cities of Patna, Dacca, or Moorshedabad, the collector is to apply to the judge of the *zillah*, through the *vakeel* of Government, to make application to the judge of such city to attach and deliver it into the charge of the nearest collector. The Board of Revenue are empowered to order the property to be sold under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue. In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the collector is to proceed against his heirs, by a regular suit in the court to which they may be amenable, for any claims which Government may have upon the deceased. The suit is to be carried on by the *vakeel* of Government, and at the public expence, and the rules in Regulation XIV. 1793, regarding suits so carried on by the collectors, are to be held applicable to it.

Collectors how to proceed, where officers abscond or are not forthcoming.

XVII. If any such native officer who may have retained public money or papers in his possession shall abscond, or not be forthcoming, the collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the *zillah*; or, if he shall have taken refuge in any other *zillah*, or in either of the cities of Patna, Dacca, or Moorshedabad, and the collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the collector is to apply to the judge of the *zillah*, to request the judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended. The judge to whom the application may be made, in to convey the officer in safe custody to the jail of the *zillah* from which he may have absconded.

Collector how to proceed, in case of the officer absconding without having adjusted his accounts, or omitting or refusing to attend for that purpose.

XVIII. If a collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by a writing to that effect under the official seal and signature of the collector to be fixed up in his *cutcherree*, and at the place in the *zillah* at which the officer may have last resided, the collector is empowered to prepare the most accurate statement that he may be able of the money or papers in the possession of such officer, and proceed against the surety upon his engagement, for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared, in the presence of the officer; or, he may cause the officer to be apprehended by his own authority under Section 16, if he be within the limits of the *zillah*, or if he shall have taken up his abode in any other *zillah*, or in either of the cities of Patna, Dacca, or Moorshedabad, by application to the judge in the manner directed in Section 17. If it should afterwards appear upon enquiry before the court, that no part, or a portion only of the sum demanded was due from him, or that the papers required were not in his possession, the collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or enquiry shall be paid by the officer.

Officers or sureties confined for a demand of money, to be released in the case herein specified.

XIX. If any such officer, or his surety, shall be confined on account of a claim for public money, and previous to the sale of his property, or supposing the collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement, shall deny the justness of the whole or any part of the demand made upon him by the collector, and find some responsible person who will become security that he will institute a suit in the court in fifteen days against the collector to try the demand, and to pay the sum that may be awarded against him with costs and interest at the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the court is to discharge the officer or surety, and proceed to the trial of the suit; and if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded, and the property restored to the owner.

Native officers or their sureties at liberty to sue the collector whilst in confinement.

XX. If any such native officer, or his surety, shall be committed to custody by the collector, and shall not obtain his release in the mode specified in Section 19, he shall nevertheless be at liberty whilst in confinement, to sue the collector by whom he may have been confined, should he deem the demand upon him unjust.

Collectors to appoint an authorized *vakeel* of the court to defend the suits herein specified.

XXI. The collectors are to appoint one of the authorized *vakeels* of the courts to defend any suits which may be instituted against them by any such native officers, or their heirs, or sureties, under this regulation; and all the rules in Regulation XIV. 1793, regarding suits instituted against the collector for sums demanded or received by him on behalf of Government, and which are not repealed by this regulation, are to be considered applicable to such suits.

Provincial, *zillah*, and city courts, to set apart one, or two, or more days in a week, for the trial of suits respecting rent or revenue, &c.

XXII. The provincial courts of appeal, and the *zillah* and city courts, are to appropriate one day, or two or more days when they shall deem it necessary, in each week, for the trial of all suits between Government or the collectors, and proprietors or farmers of land, regarding demands on account of the public revenue assessed upon the lands, or advances for *tuccavy*, water-courses, reservoirs, or embankments, and also suits between proprietors and farmers of land, and dependant *talookdars*, regarding revenue, or between any of the above descriptions of persons, and their under-farmers and *ryots*, regarding rent, or the rates of *pottahs*, or advances for *tuccavy*, water-courses, reservoirs, or embankments. The courts are to proceed to the trial of the causes above mentioned on the days so allotted, without regard to any other descriptions of causes that may have been previously filed, which are to be tried on separate days.

A. D. 1795. REGULATION VI.

A REGULATION *prescribing the Process by which the Collector, and the Tehsildars, are to realize the public Revenue payable from the Lands in the Province of Benares.* —PASSED *by the Governor General in Council, on the 27th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

THE following rules are prescribed for the guidance of the collector, and the *tehsildars*, in realizing the public revenue payable from the lands.

Rules for stationing chaunas on the crops.

II. The *tehsildars* are to place *shaenas*, or watchmen, on the crops, at the expence of the parties to whom they may belong, and are not to allow them to be cut down, or carried away, until the *zemindar* or farmer, in the *mushukhusy* lands, (lands for the payment of the revenue assessed on which a settlement has been concluded,) or the *ryots*, in the lands held *amauny*, shall have given security for the revenue payable therefrom on account of the year. If such security shall be given before the ripening of the first crops, the *tehsildar* is not to station watchmen over the crops, nor is any charge to be incurred on account of watchmen, by the persons who may be responsible for the revenue due from the lands. But where such security is not tendered, watchmen are to be stationed, and an allowance, the amount of which is to be regulated by the local custom, is to be made to them, and included in the *deh khurch*, or village charges, of which the accounts are kept by the *putwarees*. To prevent all undue exactions under the head of *shaenagee*, or allowance to *shaenas*, or watchmen, the *tehsildar* is to furnish each watchman with a *dustuck* or writ, prescribing the duty he is to perform. On this *dustuck*, the *serishtadars* (heretofore the *canoongoes*) are to endorse the name of the watchman, the rate of allowance which, according to established custom, he is to receive, and from whom it is to be levied; and the *serishtadars*, at the end of every month, are to transmit under their official signature, a list of all such *shaena dustucks* as they shall have have thus attested during the course thereof, together with the rates of *shaenages* thereby allowed. The collector is to revise these allowances, and may order them to be reduced, whenever they shall appear to him exorbitant.

When payment of the instalments is to be demanded.

III. The *tehsildars* are not to issue a *dustuck*, or written demand for the payment of any *kist*, or instalment, until it be due. Accordingly, in those places where by ancient custom the revenues are payable by two instalments in each month, viz. at the *amawus*, or middle, and the *poornmaushy*, or end, of the month, he is not to issue a *dustuck* for such *kists* before the expiration of the day of payment; and where the revenues are payable by monthly instalments, he is not to issue a *dustuck* for the instalment of any month, before the elapse of it. But when any person shall have failed to pay in his *kist* before, or on the date on which it may become due, the *tehsildar* is to issue a *dustuck*, and to cause it to be served on the party in arrear, who, until he shall have discharged the amount, is to pay to the *peon* employed in serving the *dustuck*, for the first three days, one anna per day, which rate shall afterwards be increased half an anna per day, until the *kist* be paid, or until the *dustuck* be withdrawn, as hereafter provided for. But the defaulter shall not be subject to any further charge, for the *khorack*, or subsistence of the *peon*, or other account.

Rate of *tulubbana*.

Tehsildars prohibited employing *muzkoory peons*. Regulations regarding peons entertained as monthly servants.

IV. *Tehsildars* are strictly prohibited from employing *muzkoory peons*, to serve the abovementioned, or any other *dustucks*. This duty shall be performed solely by *peons* entertained on monthly wages, and who shall have given security for their good conduct, and whose wages shall be paid by Government out of the *tullubbana* or subsistence money that may be levied from the persons on whom they may serve the *dustucks*. Every *tehsildar* is to report to the collector, the number and names of the *peons* thus entertained by him, as well as such occasional dismissions, vacancies, and appointments, as may occur in this part of his establishment; and the collector is to furnish the *tehsildars* with a correspondent number of *chupprasses* or badges, which such *peons* are to wear, and without which they are not to perform any official act. On each of these badges shall be inscribed in the Persian language, and in the Hindoostanee language and Nagree character, "*chuprassy* of the *tehsildar* of ————" (name of the *mohaul* or district, under the charge of the *tehsildar*, in whose service the *peon* may be employed.)

Serishtadars to attest all *dustucks* or written demands for the revenue, and to report the same to the collector;

and to transmit an attested list thereof to the collector.

How the *tullubbana* is to be appropriated.

V. Every *dustuck* issued by a *tehsildar* for enforcing payment of a *kist*, shall be attested by the *serishtadars* officiating in the *tehsildaree cutcherree*, who, on the eighth of each succeeding month, are to transmit to the collector an attested list of all such *dustucks* as may have been thus issued; and the *peons*, on their return with their *dustucks*, shall account to the *serishtadars* for the *tullubbana* collected by them in conformity to their *dustucks*, and, after retaining one moiety of the amount for their own subsistence, shall pay the other half to the *serishtadars*, receiving from them regular receipts for the sums so paid. The *peons* are immediately to deliver these receipts into the *dufter* or office of the *tehsildar*, who on the twentieth of every succeeding month, is to forward an attested list of them to the collector. The collector is to cause the list to be examined, and checked by the attested list of the *dustucks* issued, which he will have previously received from the *serishtadars*, and to have entered monthly in the *moolky* treasury accounts, the neat realized amount of the reserved moiety of such *tullubbana*, and to allow the *serishtadars* to apply the same towards the discharge of so much of their monthly wages as may be payable from that treasury.

Nature and extent of the responsibility of the *tehsildars*.

VI. In consideration of the liberal rate of commission continued to the *tehsildars*, they are to be considered as responsible to Government, for the regular realising of the annual amount of the *jumma* assessed on the *mushukhusy* lands, within their respective *tehsildarees*, the revenue of which is not paid *huzoory*, or immediately to the collector, as well as for the annually ascertained revenue funds of those lands that may remain *amauny*, (which funds are to be ascertained in the manner prescribed in Section 27, Regulation II. 1795,) such responsibility on their parts, being considered as rendering them liable to make good to Government from their own property, whatever deficiencies in the collection of the said ascertained funds, may be proved to have arisen either from their wilful neglect, or inattention, or from direct embezzlement, to which purport, engagements are to be taken from them by the collector. The *tehsildars* are also declared liable to be removed from their offices by the collector, with the sanction of the Board of Revenue, and to be prosecuted on the ground of their said engagements, either during the course, or at the end, of the year.

Process to be observed by the collector in realising the successive instalments, as they fall due.

× VII. The *kists* or instalments for each month, receivable from the *tehsildars*, and the *huzoory malguzars*, are to be paid between the first and the seventh of each succeeding month; and for all arrears not then paid, the collector, at his discretion, on a consideration of the credit and responsibility of the parties, is either to issue his *dustuck*, or to send only a written notice by letter, or a verbal intimation, through the *vakeels* of the parties, (who are always to be in attendance at his *cutcherree*,) to pay in their *kists*. But to those who shall not have paid the amount due from them by the fourteenth of the month, the collector shall issue *dustucks*, under his seal and signature, and countersigned by the *dewan*, on the fifteenth of the month, and the *peons* serving such *dustucks* shall be directed to bring the party or parties to whom they are addressed, without delay, to the collector's *cutcherree*, and also from the date of their *dustuck* to levy *tullubbana* for the first three days, at the rate of two *annas* per day, to be augmented at the rate of one *anna* per day, until the *kist* be discharged, or until the *dustuck* be withdrawn, as hereafter provided for. Such *dustucks*, and all other summonses of the collector, are to be served by the badge *peons* on his establishment of public officers, hired at monthly wages, who shall be allowed to retain one *anna* per day for their subsistence out of the *tullubbana* which they may levy. In

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cases, however, of unavoidable necessity, the collector is permitted to employ *munkoory peons*, who are to be allowed out of the *tullubbana* which they may collect, two *annas* per day, for their subsistence. And on particular occasions, when from the distance of situation, or the necessity for dispatch, the collector shall deem it proper, instead of a *peon*, to employ a horseman *(sowar)* in the serving of any written demand for revenue, the *tullubbana* to be collected by the horseman, shall begin at the rate of four *annas* per day, and augment at the rate of two *annas* per day, until the demand specified in the *dustuck* be liquidated. The horseman shall be allowed to retain out of this *tullubbana*, four *annas* per day for his own maintenance, and the subsistence of his horse; but no *sowars* are to be employed by the collector in the serving of *dustucks*, excepting those who form part of his public establishment, and are entertained on monthly wages. All *peons*, whether employed on monthly wages, or those termed *munkoory*, and also *sowars*, are to give security, not to exact or receive under any pretence, any sum or sums, or to accept of any subsistence for themselves, or their horses, from any person or persons, to whom they may be thus sent to demand payment of revenue, under the penalty of being made to refund double the amount, either by the collector, on such exaction or receipt coming to his knowledge, or in case of their being afterwards prosecuted on this account, in the city court, or either of the *zillah* courts.

How the *mofar tullubbana* levied by the collector is to be appropriated.

VIII. The *tullubbana* collected as above prescribed, is to be accounted for at the end of every month by the collector's *nazir*, and the *jemadar* of the *sowars*, to the treasurer of the *moolky* treasury, and the said *nazir* and *jemadar* are then to pay in the amount thereof, according to an attested statement under the collector's official seal and signature. This statement is to remain as a voucher in the said treasury, from the gross receipts specified in which, there is only to be deducted the subsistence money allowed to the *peons* or horsemen, as authorized in the preceding section.

On whom the collector is to make his demand for the *kuzoory* revenue.

IX. When any *kuzoory malgoozar* (whose privileges, and the mode of acquiring them, are explained in Regulation II. 1795,) falls in arrears, the collector may address his *dustuck*, or written demand for the *kist*, either to the defaulter himself, or to his *mulzamin* or security, or, if necessary, to both.

On whom the *tehsildars* are to make their demand for the revenue payable through them.

X. With respect to the lands the revenue assessed on which is not paid *kuzoory*, or immediately to the collector, the *tehsildar*, at the expiration of the fifth day from the date of his *dustuck's* having been served without success on the party or parties in arrear, is to cause similar written demands, under the same attestations, and subject to the same progressive rate of *tullubbana*, to be served on their sureties, if they shall have given sureties; and, when the revenue in demand, together with the *tullubana*, shall be realised from the principal or surety, either at their places of abode, in consequence of the *dustuck* being served upon them, or, at the *tehsildar's cutcherree*, to which the *peons* are to escort them, by such time (consistently with the period fixed in the ensuing section, for their being sent in to the collector) as shall be specified by the *tehsildar* in the *dustuck* such *dustuck*, or *dustucks*, together with the *peons* serving the same, shall thereon be immediately withdrawn.

When the *tehsildars* are to send in defaulters to the collector.

XI. The *tehsildars* are not to confine in jail, or put into stocks or irons, any persons, whether principals or sureties, who may be in arrears on account of the revenue; but in case of any such defaulter not paying up the demand on him by the tenth day after a *dustuck* shall have been served on a principal, or by the fifth day after the *dustuck* issued on his surety, such party or parties are invariably to be sent with a written report of the circumstances to the collector. In such instances, and also in similar cases of *kuzoory malgoozars* or their sureties, on whom he may have sent a *dustuck* or written demand, and summoned in the first instance, the collector, after enquiring into the circumstances, shall within ten days after the arrival of such defaulter or defaulters at his *cutcherree*, (during which period of ten days he may either confine their persons, or only keep over them the *peons* with whom they arrived,) either discharge him or them, on his or their paying the amount in demand, or satisfying the collector that he or they will make good such payment, before the expiration of the current Hindoo month; or otherwise, the collector is to cause the party or parties in question, after the expiration of the ten days, to be conveyed to the public jail of the nearest court of *dewanny adawlut*, and the collector is to apply to the court by motion in writing, to be made in open court, (if the court shall be sitting,) through the pleader of Government, for the confinement of the defaulter. If the court shall not be sitting, the motion

Period during which the collector may confine defaulters.

When they are to be committed to the jail of the city and *zillah* courts.

Motion in writing to be made to the court on this occasion.

Judges to confine the defaulter.

tion is to be presented to the judge out of court. The motion is to specify the amount of the arrear due from the defaulter, and the date on which it became payable. Upon receipt of the motion, the judge is immediately to order the defaulter to be confined in the jail of the *dewanny adawlut*, and detain him, until he shall have discharged the arrear for which he may have been taken into custody, and all subsequent arrears that may become due during his confinement, or until the collector shall apply to the court, by motion made as above directed, to have him released.

Cases in which defaulters are to be charged with interest on arrears.

XII. To prevent proprietors or farmers of land, withholding the payment of the public revenue, to derive the benefit of the use of the money, or otherwise applying it to their private purposes, the Board of Revenue are empowered, in every case in which it shall appear to them that a *talookdar*, *zemindar*, or other actual proprietor, or farmer of land, has wantonly, or without sufficient cause established to their satisfaction, withheld the payment of the public dues, to charge the defaulter with interest on the arrear, at the rate of twelve per cent. per annum, from the period at which it may become payable, until the date on which it may be discharged. The order of the Board of Revenue to the collector to levy the interest, shall be a sufficient authority to him to enforce the payment of it, by the same process to which he is empowered to have recourse, for compelling the discharge of arrears of the stipulated public revenue. But the Board of Revenue are not to order the collector to exact the interest, until they have submitted the circumstances of the case to the Governor General in Council, and received his sanction for the demand of it.

Cases in which the collector is directed to suspend the exercise of the powers vested in him by Section 11.

XIII. If the crops in any estate or farm, shall have been damaged, or destroyed, by drought, inundation, or other calamity of season, or from any cause not originating in the neglect, mismanagement, or misconduct of the proprietor or farmer, and such proprietor or farmer shall fall in arrears, so as to subject himself to be confined under Section 11, and the collector shall be satisfied, from the best information which he may be able to obtain, that the defaulter is unable to make good the arrears by the end of the current month, as required in the said section, either from the collections on account of such year from his estate or farm, or from his private funds, or property, or by a loan, he is directed to suspend the exercise of the powers vested in him in Section 11, for the confinement of the defaulter. But the collector is immediately to report the circumstances of the case to the Board of Revenue, with his reasons for not proceeding against the defaulter, and to wait for, and be guided by, the instructions which he may receive from them.

Precautions to be taken for the security of the revenue, on the confinement of a proprietor or farmer of land.

XIV. In all cases of the default, or confinement of parties, from whom revenue may be due, the collector is to issue directions to the *tehsildar* of the district in which the lands of the defaulter may be situated, to levy the public revenue, by realising, in concert with the *serishtadars*, the defaulter's full share of the assessment on the crops to the end of the year, or until such time as he or his surety, in case he shall have given security, shall have paid up the balance, together with the charges of the *peons* who may have taken him into custody.

From whom and in what proportions the revenue is to be collected, on Government's proceeding to realise the demands of defaulters from the *putteedars* and *ryots*.

XV. This sequestration of the profits of the party or parties in arrear, is to extend also to the profits of all those of the brethren or *putteedars*, whose names may be inserted in the *pottah* of Government, and who shall have executed the corresponding *cobooleat*; without however infringing the rights of the inferior *putteedars* or sharers, or in *talookas*, of the dependant village *zemindars*, or under-renters, or, in any case, or under any description of tenure, of the common *ryots*, from whom the collections are to be made by the *tehsildar*, according to their engagements with the defaulter or defaulters; or, where no such engagements exist, according to the established rules and usages of the village or *talooka*; and in addition to the accounts to be kept by the *serishtadars*, the defaulter may appoint a person to keep a counterpart of the accounts of the receipts and disbursements.

Tehsildars and collector liable to be prosecuted for any breach of the preceding rules.

Persons on whom a demand for revenue may be made by any *tehsildar* or collector, at liberty to institute a suit to try the justice of it.

XVI. All complaints for any breach of the rules contained in the preceding sections, either by direct infraction of them, or by unnecessary severity in the execution of them, are declared cognizable in the city and *zillah* courts, to which any of the parties may apply at all times, either in person or by *vakeel*. In such cases, the judge is to cause the collector, or *tehsildar*, (according as the act complained of, may have been done by the former or the latter,) to be immediately served with a copy of the complaint, fixing a date, according to the distance of place, for the party complained against to deliver in his answer. On the receipt of such

copy and notice, the collector or *tehsildar* respectively, within the period limited in the notice, shall give in his answer to the court, stating therein the amount in demand from the party or parties on whom the *dustucks* shall have been issued; and, if the said party or parties shall not thereon dispute the justice of the demand, the judge shall stop all further proceedings in the cause. On the contrary, if the plaintiff, or plaintiffs, in their replication, or that of their *vakeel*, delivered into court, shall not allow of the justice of the demand, and shall thereon tender to the court sufficient *mulzuminy* or security, as well for the sum actually in demand, as for such further amount as may become due from the growing *kists*, during the trial, and condition to abide by such decree as the court may pass, including all costs and charges, in case the plaintiff or plaintiffs be cast, the judge shall issue a written precept, addressed to the *tehsildar* or collector, (according as the former or the latter may be the defendant,) to withdraw the *dustuck* and *peon* from the plaintiff or plaintiffs in the cause. In contormity to the precept, the defendant shall withdraw his process on the party or parties complaining, and give in his answer, when if no part of the claim shall be found to be due from the complainant, the judge shall discharge him, and decree such costs and damages against the *tehsildar*, or the collector, as he may deem equitable, upon a consideration of the circumstances of the case; and the damages so decreed shall be defrayed either by Government, or the party prosecuted, according to the rules for such cases hereafter laid down in this regulation. If only a part of the demand shall appear due, the court is to discharge the prisoner upon his paying such part. In both cases, however, the court, previous to releasing the prisoner, shall take good security from him to perform the final decision in appeal, in the event of the cause being appealed by the *tehsildar* or collector, in consequence of orders from the Board of Revenue, or without their orders. If the *tehsildar* or collector, shall state to the court that an appeal will not be preferred from the decision, or, if an appeal shall not be lodged within the time limited for preferring appeals to the provincial court of appeal, the judge shall release the person so confined without taking such security.

How lands of proprietors in arrear at the end of the year, are to be disposed of.

XVII. *First.* At the expiration of the year, if an arrear shall remain due from any *talookdar*, or *zemindar*, or other actual proprietor of land, the collector is to communicate the amount to the Board of Revenue, accompanied by a detailed account of the causes of the failure, when, as far as regards the lands of proprietors, if the deficiency shall clearly appear to have proceeded from his or their embezzlement, or misappropriation of the funds, arising from the produce, and that there be no immediate prospect of the party or parties, or his or their suretics, making good the amount; the Board of Revenue, provided from the communications of the collector, it shall appear to them expedient so to do, and the Governor General in Council shall approve of the measure, may authorize the collector to transfer the rights of the defaulting landholder, to such one or more of his *putteedars*, or sharers, as shall be able and willing, in consideration of such transfer, to pay up the balance due to Government. In such case, the defaulter is not to be entirely excluded, but is to retain, as an inferior *putteedar*, such a portion of *nej-jote* ground, as, with the approbation of the collector, the *putteedars* who may succeed him shall be willing to allow him to hold, at the established rate of rent, payable by the most inferior of the family *putteedars* of the same village or *talooka*; provided, however, that no *putterdar* in arrear on account of rent to the defaulter, shall be allowed to take advantage of this option, which the collector is successively to tender in preference to the others, in proportion to the greater or less interest they severally possess in the estate, until one or more of them accept, or they all decline it.

In the case of the arrears arising from the proprietor's misconduct.

His rights may be transferred to his *putteedars* or partners, on their paying up the balance,

Second. Where such transfer of a defaulter's rights, to one or more of his *putteedars* or sharers, shall not prove effectual in realizing the balance; or in cases where the deficiency cannot be proved to have arisen from embezzlement on the part of the landholder, but where the cause may not be of such a nature, as to induce the Governor General in Council to remit the amount, the Board of Revenue, with the sanction of the Governor General in Council, may direct the collector, either to continue the defaulter in possession, on his engaging in such manner as shall be deemed satisfactory, to pay up his balance with the future revenue, or sequester to the use of Government, the ensuing year's profits of the defaulter, in the manner, and under the restrictions, specified in Section 15. The last mentioned measure shall be adopted, where there is a reasonable prospect of at least realizing thereby, the assessment payable to Government in the ensuing years, and in such instances, it shall be the

or his profits may be sequestered by Government.

Case of a proprietor falling in balance through misfortune.

Duty of the collector in respect to the improvement of *uncuny* lands.

duty of the collector, in like manner as in all cases in which lands are held *amauny*, to acquire the fullest information, and to propose to the Board of Revenue such improvements of the *jydaad*, or funds, as may appear practicable, by making advances for *tuccavy*, *gilandazee*, the cutting down of jungles, or by the construction of embankments, or watercourses, so as not only to prevent any diminution of the produce of the lands, but to improve and increase it.

How the profits arising from the land of dispossessed landholders are to be appropriated,

Third. The profits arising from the surplus collections over and above the former fixed *jumma* adjusted by the permanent settlement, after defraying the charges of improvement, whilst Government think fit to leave the lands *amauny*, shall be appropriated entirely to the use of the public, in the cases of all defaulting proprietors who may be dispossessed under the preceding clause, for embezzlement or misappropriation of the funds for the payment of the public revenue: and such *zemindars* shall not be reinstated, until from their own means, they shall have paid up, or given satisfactory security for discharging the balance incurred, as well as to repay to Government the principal of the amount it shall have advanced for improving the estate. But in the other case, stated in clause second, in which embezzlement shall not have been clearly proved against the defaulting landholders, the profits or surplus collections shall be set off against the arrears due from them, and they shall be entitled to reinstatement, as soon as the arrears shall thus, or otherwise from their own funds, have been discharged, or when they shall deliver in satisfactory security for the amount, inclusive of the whole or the part of the charges of improvement incurred during their dispossession, for which Government, on a review of the circumstances of the case, shall think fit to render them responsible.

in the instances in which such landholders have been dispossessed for misconduct,

and in those where such misconduct is not ascertained.

Right reserved to Government to let the lands of the dispossessed proprietors to whomsoever they shall think proper,

Fourth. The rules in the preceding clauses of this section, are to be understood with this reservation, that in all cases where *talookdars*, *zemindars*, or other land owners, shall be dispossessed for arrears of revenue, Government shall have the option of letting their lands on lease, either for a term, or in perpetuity, to any person or persons, in case of the dispossessed proprietors omitting or refusing to resume the management of their lands, under the conditions that may be offered to them.

and to dispose of the lands at public sale for the recovery of arrears.

Fifth. In extraordinary instances of embezzlement, or misappropriation of the funds from which the revenue may be payable, by any landholder, or in any other cases in which it may be deemed advisable, the Board of Revenue, (in addition to such recourse as is authorized to be had on the surety,) may recommend to the Governor General in Council, the enforcing of that part of the engagements of the landholders, which renders their property, real and personal, liable to sale for arrears of revenue.

How lands rented by farmers in arrear at the end of the year are to be disposed of.

XVIII. *First.* Where arrears shall be due by farmers near the close of the year, the recovery of which, either through themselves or their sureties, shall not have been effected by its expiration, the collector, with the sanction of the Board of Revenue, is to have recourse, in the first instance, to the ancient *zemindars* of the village or *talooka* in question; who, on paying up the farmer's balance, either immediately, or on finding security to pay it by instalments in the course of the ensuing year, shall be reinstated in their *zemindaree*.

Lands to be in such instances restored to the ancient *zemindars*.

or the farmer's lease to be continued, or the lands to be let again to such person, and for such a term, as Government may approve,

Second. Where there are no ancient *zemindars*, or where they decline to take on themselves the balance of the farmer, the latter may be continued, on his stipulating in such manner as shall be deemed satisfactory, to pay off his balance with the future revenue; or otherwise the farm is to be relet in perpetuity, or for such term as Government may direct, to such other person or persons, as, in consideration of such lease, shall immediately pay up, or find satisfactory security for the removed farmer's balance, or the part of it, the payment of which shall be required.

or to be held *amauny* under the collector.

Third. Where neither the ancient *zemindars* shall be reinstated, nor the farmer in arrear be continued, nor any new farmer undertake to discharge the balance incurred, or such part thereof as Government may require, the lands are to continue *amauny*, under the same kind of management, and regard to their improvement, as is directed in clause second of the preceding section, to be observed in respect to lands from which *zemindars* shall have been dispossessed.

Property of farmers may be disposed of for the recovery of arrears.

Fourth. The Board of Revenue, in all cases in which they may judge it advisable, (in addition to such recourse as is authorized to be had on the surety,) may recommend to the

Governor General in Council, the sale of the property of farmers in arrears, in conformity to the tenor of their engagements.

Lands of proprietors, or the property of farmers, not to be sold for demands of revenue which may be under trial in the courts of justice, until the cause is finally decided.

Lands not to be sold for arrears without the sanction of the Governor General in Council.

XIX. In cases in which arrears of revenue shall be stated to be outstanding against any actual proprietor or farmer of land, who shall have given the security required, and instituted a suit under Section* 16, *to try the justness of the arrear demanded of him, his lands, or other property, shall not be liable to sale for the arrears so claimed, until a final decision shall be passed in the cause; nor are lands or other property, in any case whatever, to be sold for the discharge of arrears of revenue, without the sanction of the Governor General in Council.*

Tehsildar how to proceed, when a proprietor or farmer of land refuses to pay his arrears, or resists the process issued by him under Sections 3. and 10.

XX. If a *tehsildar* shall issue the process prescribed in Sections 3. or 10. against any *zemindar*, or other actual proprietor of land, or any farmer, or surety, for payment of the amount of the instalment in demand, or of any other sum or arrears of revenue due, and the party to whom such process may be addressed, shall refuse to obey, or resist, or cause to be resisted, the *peon* deputed to serve such process, or abscond from the *peon*, after he shall have served such process, or retire to any place, so that the process cannot be served on him; the *tehsildar* who may issue the writing, is immediately to represent the case to the collector, and to transmit a *cooruthaul*, or circumstantial report of it, under the seal of the *cutcherry*, and the attestations of the *serishtadars*; whereupon, if the party thus accused shall not intermediately have made his appearance at the collector's *cutcherree*, the collector shall issue a summons to him, requiring him to repair to his *cutcherree* for the explanation of his conduct, and for the payment of his *kist*, along with the two *peons*, or the single *sowar*, either of whom, the collector at his discretion may depute to serve this summons. Upon the arrival of the party at the *cutcherree* of the collector, the latter is to enquire into the circumstances of the case, and as may appear to him proper on a consideration of them, either order the offender to be committed to temporary confinement for any term not exceeding ten days, or to exact sufficient *hasir* or *fael-zaminy*, from him. If the non-attendance of the party, in the first instance, shall be found to have arisen from any misconduct in the *tehsildar's peon*, who served the process, he is to be dismissed, and declared incapable of being again employed in any revenue capacity whatsoever, and accordingly, no *tehsildar* shall afterwards employ him; and the *tehsildar* shall also be removed, in case the resistance of the party served with the process shall appear to the collector to have arisen from the injustice of the demand of revenue made on him. Of all orders for the confinement or dismission of *peons* or *tehsildars* under this regulation, the collector is to make a separate monthly report to the Board of Revenue, who are thereon to issue such farther instructions for his guidance, as they may think proper.

Tehsildar to advise the collector.

Collector to summon the party.

Extent of the collector's authority in the cognisance and punishment of such offences.

XXI. In all cases in which the collector shall order any *zemindar* or farmer to be confined, under the authority vested in him by Section 20, he shall cause a notice thereof, and of the date from which such imprisonment is to commence, to be made through the *vakeel* of Government, to the judge of the *dewanny adawlut* within whose jurisdiction the lands of such *zemindar* or farmer shall be situated; and such notices are to be filed of record in the courts, to guard against any undue protraction of the term of such commitments.

Collector to cause to be filed of record in the courts of justice, the confinement of *zemindars* or farmers under Section 20.

XXII. If the party, (being a *talookdar*, *zemindar*, or other actual proprietor of land,) against whom the collector shall have issued process at the instance of the *tehsildar*, as prescribed in Section 20, shall refuse to obey, or resist, or avoid compliance with the requisition of the process; or, if in the first instance, the collector shall have issued the process prescribed in Section 9, against any *huzoory zemindar*, or other actual proprietor of land, on account of arrears of public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the *peons* deputed by the collector to convey him to jail, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place so that the process cannot be served upon him, the collector is immediately to represent the circumstances, through the *vakeel* of Government, to the *dewanny adawlut* within the jurisdiction of which, the lands on account whereof the arrears shall be due, may be situated; and upon the *peon* or *peons* deputed to execute the process, or any two or more credible persons, making oath to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind

Collector how to proceed, when a proprietor of land refuses to obey or resists the process, issued by him under Section 20, or escapes from the *peons*, or prevents the process being served upon him.

Judge upon the charge appearing to him well founded,

* Rescinded by clause first, section 3, Regulation XI. 1822.

to issue a publication, requiring the defaulter to deliver himself up to the court in four weeks.

In what language the publication is to be written, and where, and when, it is to be fixed up.

from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, shall require the defaulter by a publication in writing, to deliver himself into the custody of the court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Persian language, and the Hindoostanee language and Nagree character, and shall be fixed up as early after the date of it as may be practicable, at his usual place of abode, or the principal *cutcherree* in the estate on account of which the arrears may be due, and the office of the collector, and the court-room of the *dewanny adawlut* of the *zillah*; and in the mean time, the collector is to cause the rents and revenues of the estate of the defaulter to be realised on behalf of Government, in the manner specified in Sections 14 and 15.

Decree to be passed by the court, in the event of the defaulter not surrendering himself within the limited period, or of his delivering himself up within the time, and the charge being proved against him.

Court to transmit the decree and proceedings to the Governor General in Council, if the defaulter should not appeal within the prescribed time.

If the defaulter should appeal, and the decision of the city or the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings, to the Governor General in Council, in the event of the defaulter not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed, in case the suit should be appealed to them, and they should confirm the decision of the provincial court.

Collector how to proceed, if the city or *zillah* court should adjudge the charge not proved.

XXIII. If the defaulter shall not surrender himself, before the expiration of the period limited in the publication directed to be made in Section 22; or, if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, and that which the collector may adduce in support of his representation, it shall be proved to the satisfaction of the court, that the defaulter is guilty of the charge, the court is to decree the proprietary right of the defaulter, and his heirs, in the estate on account of which the arrears may be due, forfeited to Government. If the defaulter shall not appeal from the decree to the provincial court of appeal, within the time limited for preferring appeals to that court in Section 12, Regulation V. 1793, the court is immediately to transmit to the Governor General in Council, a copy of the decree, and of all the proceedings respecting the charge. If the defaulter shall appeal to the provincial court of appeal within the prescribed time, and the court shall confirm the decision of the city or *zillah* court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring appeals to that court in Section 10, Regulation VI. 1793, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the proceedings and decree of the city or *zillah* court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court of appeal, and the Sudder Dewanny Adawlut should confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the city or *zillah* court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process prescribed in Sections 9. and 20, or either of them, had been duly served upon him, and he had obeyed it; and the collector is immediately to obtain from the court, a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it or not, as may appear to them proper. If the Board shall order an appeal to be preferred, and it shall be lodged within the limited time, and the provincial court should reverse the decision of the city or *zillah* court, and adjudge the proprietary right in the estate forfeited, and the cause shall not be appealable to the Sudder Dewanny Adawlut; or, if it shall be appealable, and an appeal should not be preferred within the limited time, the provincial court is immediately to forward a copy of their proceedings and decree in the appeal, and of the decree and proceedings of the city or *zillah* court, to the Governor General in Council. If the judge of the city or *zillah* court shall decree the charge proved, and the decision shall be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and proceedings of the city or *zillah* court, and provincial court of appeal, with a letter, stating his objections to the decree of the latter court, to the Board of Revenue, who are to order him to appeal the cause to the Sudder Dewanny Adawlut, (provided the cause shall be appealable,) or not, as they may think proper. If the cause shall be appealed, and the appeal shall be received in the Sudder Dewanny Adawlut, and the court should reverse the decision of the provincial court, and declare the proprietary right in the estate forfeited, the court is immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the provincial court of appeal, under this section, an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last mentioned court,

Rule for cases in which the provincial court of appeal may reverse such decisions of the city or *zillah* courts.

Collector how to proceed, if the charge should be judged proved in the city or *zillah* court, and the provincial court of appeal shall reverse the decision.

Rule for determining from what decrees of the provincial court of appeal passed under this section, an ap-

unless the annual produce of the estate of the defaulter on account of which the arrears may have been demanded, calculated according to the amount paid or payable by the *putteedars*, distinct or common, under-farmers, and *ryots*, to the defaulter, on account of the year in which the decision of the city or *zillah* court may be passed, shall exceed one thousand sicca rupees; and the collector is enjoined to insert generally in the representation which he is directed to make to the *dewanny adawlut* of the city or *zillah* in Section 22, whether the produce of the estate on account of the year above mentioned, according to the best information he may have been able to obtain, exceeds or falls short of one thousand sicca rupees; but without specifying the actual amount of the produce. If the defaulter shall not deliver himself up within the prescribed time, or if he shall surrender himself by the limited period, and the collector shall have stated the produce of the estate to be under one thousand sicca rupees, and the defaulter shall not deny the truth of the collector's statement in his answer to the charge, and the cause should be afterwards brought before the provincial court of appeal, an appeal shall not lie from the decision of that court to the Sudder Dewanny Adawlut. If the collector shall represent that the produce of the estate for the year before mentioned, exceeds or falls short of one thousand sicca rupees, and the defaulter should appear within the limited time, and in his answer to the charge, object to the statement, the judge is to try the objections, and pass such decision upon them as may appear to him equitable. If the cause should be afterwards brought before the provincial court of appeal, and no objection be offered by either party to the decision of the city or *zillah* court on the collector's statement of the produce of the estate, it is to be held accurate. If objections should be offered, the provincial court is to try the objections, and pass such decision upon them as may appear to it equitable. If an appeal from the decree of the provincial court should be presented to the Sudder Dewanny Adawlut, and the admission or rejection of the appeal should depend upon the produce of the estate, for the year before mentioned, exceeding or falling short of one thousand sicca rupees, the court of Sudder Dewanny Adawlut is to examine the decisions passed by the *dewanny adawlut* of the city or *zillah*, and the provincial court of appeal, respecting the produce of the estate, and either adjudge the cause to be appealable or not, as may appear to them equitable. Decrees that may be passed under this section, by the *dewanny adawlut* of any city or *zillah*, or the provincial court of appeal, or the Sudder Dewanny Adawlut, adjudging the proprietary right in the estate of a defaulter to be forfeited to Government, shall not be carried into execution in any case whatever, without an order from the Governor General in Council, confirming the decree, and directing in what manner the proprietary right in the estate shall be disposed of. It shall be at the option of the Governor General in Council, within four weeks after the receipt of a decree adjudging the proprietary right of any defaulter in an estate forfeited, either to order the decree to be executed, or to commute the forfeiture for such fine, as upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture for a fine, the court which shall have transmitted the decree and proceedings to the Governor General in Council, upon receiving notice of the fine that he may impose, are to levy the amount of it, by the same process by which they are directed to enforce decrees of the court, and to pay the amount to the collector. But if the Governor General in Council shall not, within four weeks after the decree shall have been received by him, either order it to be executed, or commute the forfeiture for a fine, the decree is to stand good against the defaulter. The process which a collector may institute against a defaulter in the court of *dewanny adawlut* of the city or *zillah* under this section, as well as the prosecution or defence of any appeal from the decision of such court which may be preferred to the provincial court of appeal, or from the decree of the provincial court, to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, is to be carried on at the public expence, and to be conducted by the *vakeel* of Government, whom the collector is to furnish with the necessary instructions.

peal is to lie to the Sudder Dewanny Adawlut.

Decrees passed under this section not to be carried into execution, without the sanction of the Governor General in Council.

If the estate is decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine within four weeks after he may receive the decree.

If the forfeiture is commuted for a fine, by what court and how it is to be levied.

Decree of forfeiture to be final, if not ordered to be executed, or commuted for a fine within the time above mentioned.

Process and appeals instituted under this section to be conducted by the *vakeel* of Government on the part of the collector, and to be carried on at the public expence.

XXIV. If the defaulter mentioned in Section 22, shall be allowed to retain the proprietary right in his estate, Government is to account to him for the amount received from it during the sequestration; and if it shall exceed the public revenue that was due from the estate, the expences attending the sequestration, and the fine which may be imposed on the defaulter, the overplus is to be returned to him. If the sum received through the officers of Govern-

Proceeds of the estate of the defaulter whilst attached, to be accounted for to him, if the forfeiture should be commuted for a fine.

Portion of the defaulter's estate to be sold, if the proceeds should not be adequate to answer all demands against him, and he should not discharge them.

ment appointed to make the collections during the sequestration, shall be inadequate to the payment of the several demands above mentioned, and the defaulter shall not make good the deficiency, a portion of his lands is to be sold for the discharge of it.

If the forfeiture should be confirmed, the Governor General in Council to confer the estate on the heirs of the defaulter, or dispose of it at public sale.

XXV. If the decree adjudging the proprietary right in the estate of the defaulter forfeited, shall be confirmed under Section 23, it shall be at the option of the Governor General in Council, either to confer such right upon the heirs of the defaulter, on their agreeing to make good all sums whatever that may be due to Government from the defaulter on account of the estate, and to pay the fixed revenue assessed upon it; or, to dispose of it at public sale, subject to the payment of such revenue. If the estate shall be conferred upon the heirs of the defaulter, he is to be immediately released, if he should be in confinement. If the estate shall be disposed of at public sale, the proceeds of the sale are to be appropriated towards the discharge of the demands of Government, either on account of the public revenue, the expence attending the deputation of the *ameen* or other native officer appointed to make the collections, or other charges incurred, in consequence of the default of the former proprietor. If no such demand shall be outstanding at the time of sale, or if any such demand should be due, and the proceeds shall exceed the amount of it, the whole of the proceeds in the first mentioned case, and the overplus in the second, is to be carried to the public account, or applied in any other manner that the Governor General in Council may direct.

Collector how to proceed, if a farmer refuses to obey or resists the process issued by him under Section 20, or escapes from the *peons*, or prevents the process being served upon him.

XXVI. If the party, (being a farmer,) against whom the collector shall have issued his process at the instance of the *tehsildar*, as prescribed in Section 20, shall refuse to obey, or resist, or avoid compliance with the requisition of the process; or, if in the first instance, the collector shall have issued the process prescribed in Section 9, against any *huzoory* farmer, on account of arrears of the public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the *peons* deputed by the collector to convey him to jail, or escape, after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that the process cannot be served upon him, the collector is immediately to represent the circumstances through the *sukeel* of Government to the *dewanny adawlut* of the city or *zillah*, wherein the lands on account of which the arrears shall be due may be situated, and upon the *peon* or *peons* deputed to execute the process, or any two or more credible persons making oath to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, is to require the defaulter, by a publication in writing, to deliver himself into the custody of the court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Persian language, and the Hindoostanee language and Nagree character, and shall be fixed up as early after the date of it as may be practicable, at his usual place of abode, or the principal *cutcherree* in the farm, and in the office of the collector, and the court-room of the *dewanny adawlut*, and in the mean time the collector is to cause the rents and revenues of the farm of the defaulter to be realised on behalf of Government, as prescribed in Sections 14. and 15. If the defaulter shall not surrender himself before the expiration of the period limited in the publication, or, if he shall deliver himself up within the prescribed time, and after receiving his answers to the charge, and the evidence that he may have to produce in his defence, and that which the collector may adduce in support of his representation, if it shall be proved to the satisfaction of the court that the defaulter is guilty of the charge, the court shall decree the lease of the farmer annulled from the expiration of the Fussily year in which the decree may be passed. If the defaulter shall not appeal to the provincial court of appeal, within the time limited for preferring appeals to that court, in Section 12, Regulation V. 1793, the court is immediately to transmit to the Governor General in Council, a copy of the decree, and of all the proceedings respecting the charge. If the defaulter shall appeal to the provincial court of appeal within the prescribed time, and that court shall confirm the decision of the city or *zillah* court, or if the cause shall not be appealable to the Sudder Dewanny Adawlut, or, if it shall be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring appeals to that court, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the city or *zillah* court, to the Governor

Judge, upon the charge appearing to him well founded, to issue a publication requiring the defaulter to deliver himself up to the court in four weeks.

In what languages the publication is to be written, and where, and when, it is to be fixed up.

Decree to be passed by the city or *zillah* court, in the event of the defaulter not surrendering himself within the limited period, or of his delivering himself up within the time, and the charge being proved against him.

Court to transmit the decree and proceedings to the Governor General in Council, if the defaulter should not appeal within the prescribed time.

If the defaulter should appeal, and the decision of the city or *zillah* court be confirmed, the provincial courts to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of

General in Council. If an appeal shall be received from the decision of the provincial court of appeal, and the Sudder Dewanny Adawlut shall confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the city or *zillah* court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process in Sections 9. and 20, or either of them, had been duly served upon him, and he had obeyed it; and the collector is immediately to obtain from the court, a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it or not as may appear to them proper. If the Board shall order an appeal to be preferred, and it shall be lodged within the limited time, and the provincial court should reverse the decision of the city or *zillah* court, and adjudge the lease annulled, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and an appeal shall not be preferred within the limited time, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the city or *zillah* court, to the Governor General in Council. If the judge of the city or *zillah* court shall decree the charge proved, and the decision shall be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and proceedings of the city or *zillah* court, and the provincial court of appeal, with a letter stating his objections to the decree of the latter court, to the Board of Revenue, who are to order him to appeal the cause to the Sudder Dewanny Adawlut, (provided the cause shall be appealable,) or not, as they may think proper. If the cause shall be appealed, and the appeal shall be received in the Sudder Dewanny Adawlut, and that court should reverse the decision of the provincial court, and adjudge the lease annulled, the court is immediately to transmit a copy of the decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the provincial court of appeal under this section, an appeal shall be admitted to the Sudder Dewanny Adawlut, it is declared that an appeal shall not lie to the last mentioned court, unless the *jumma* paid or payable to Government by the defaulter, on account of the year in which the decree of the city or *zillah* court may be passed, shall exceed one thousand sicca rupees, and the collector is enjoined to state generally in the representation which he is above directed to make to the city or *zillah* court, whether the *jumma* paid or payable by the defaulter in such year, exceeds or is less than one thousand rupees, but without specifying the exact amount of it; and the rules prescribed in Section 23, regarding objections that may be offered to the statement of the produce of the estates of contumacious proprietors, which the collector is therein directed to present to the city or *zillah* court, are to be held applicable to the statement of the *jumma* payable by defaulting farmers required to be submitted by the collector in this section. Decrees that may be passed under this section, by the *dewanny adawlut* of the city or any *zillah*, or the provincial court of appeal, or the Sudder Dewanny Adawlut, adjudging the lease of a farmer annulled, shall not be carried into execution in any case whatever, without an order from the Governor General in Council confirming the decree. It shall be at the option of the Governor General in Council, within four weeks after the decree may be received by him, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine, as upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed; or, if the defaulter shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements, until the term of them shall expire. If a fine shall be imposed on the defaulter, the court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine, is to levy the amount of it by the same process by which they are directed to enforce decrees of the court, and to pay the amount to the collector. But if the Governor General in Council, within four weeks after the decree shall have been received by him, shall not either order it to be executed, or commute the annulling of the lease for a fine, the decree shall stand good against the defaulter. The process which the collector may institute in the *dewanny adawlut* of the city or any *zillah*, under this section, as well as any appeal that

the defaulter's not appealing in time to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed, in case the suit should be appealed to them, and they should confirm the decision of the provincial court.

Collector how to proceed, if the city or *zillah* court should judge the charge not proved.

Rules for cases in which the provincial court of appeal may reverse such decisions of the city or *zillah* courts.

Rules for cases in which the charge may be judged proved in the city or *zillah* court, and the provincial court of appeal shall reverse the decision.

Rule for determining from what decrees of the provincial courts of appeal passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

Decrees passed under this section, not to be carried into execution without the sanction of the Governor General in Council.

If the lease shall be adjudged annulled, the Governor General in Council may confirm the decree, or commute the annulling of the lease for a fine within four weeks after he may receive the decree.

If the decree shall be commuted for a fine, how it is to be levied.

Process and appeals under this section, to be con-

ducted by the *vakeel* of Government on the part of the collectors, and at the public expence.

that may be preferred from the decision of the city or *zillah* court, to the provincial court of appeal, and from the decision of that court to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, are to be defended and carried on at the public expence, and by the *vakeel* of Government, whom the collector is to furnish with the necessary instructions.

Accounts with the defaulter how to be settled, if the lease should be annulled.

Balance, if any due, to be levied from him and his surety.

XXVII. If the lease of the defaulter mentioned in Section 26, shall be annulled, he shall receive credit for the collections made by the officers of Government, after deducting the charges incurred which may be admitted, and if any balance shall then remain due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector is to serve the surety with the written demand for the amount, requiring it to be paid at the treasury of the collectorship, within a certain number of days after the day on which the writing may be served by the *peon* to be deputed for that purpose, and in the event of its not being discharged by the time limited in the writing, the collector is to proceed against the surety, and the defaulter also, if he shall be forthcoming, and should not have been previously confined, in the manner in which he is directed to proceed in Section 11, against defaulters in arrear on account of revenue. If there shall be a surplus after discharging all the demands above mentioned, it is to be paid to the defaulter, who shall be at liberty to prosecute in the city or *zillah* court, the *talookdars*, *zemindars*, *putteedars*, distinct and common, and the underfarmers and *ryots* in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.

Surplus, if any, to be paid to the defaulter.

Defaulter to be at liberty to prosecute any proprietors, farmers, or *ryots*, for arrears in the *dewanny adawlut* of the *zillah* or city.

Collector how to proceed, when sureties of proprietors or farmers of land, refuse to obey, or resist the process issued by him under Section 20, or escape from the *peons*, or prevent the persons being served upon them.

XXVIII. If the party, (being a surety,) against whom the collector shall have issued his process at the instance of the *tehsildar*, as prescribed in Section 20, shall refuse to obey, or resist, or avoid compliance with the requisition of the process, or if in the first instance, the collector shall have issued the process prescribed in Section 9, against the surety of any proprietor or farmer of land, and such defaulting surety shall refuse to obey, or resist, or cause to be resisted, the *peons* thus deputed by the collector, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that the process cannot be served upon him, the collector is thereon immediately to represent the circumstances through the *vakeel* of Government, to the *dewanny adawlut* of the city or *zillah*, in the jurisdiction of which the lands on account whereof the arrears shall be due may be situated, and upon the *peon* or *peons* deputed to execute the process, or any two or more credible persons, making oath to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, is to require the defaulter, by a publication in writing, to deliver himself into the custody of the court, within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Persian language, and the Hindoostanee language and Nagree character, and shall be fixed up as early after the date of it as may be practicable, at his usual place of abode, and in the principal *cutcherree* in the estate or farm, the office of the collector, and the court-room of the *dewanny adawlut*. If the defaulter shall not surrender himself before the expiration of the period limited in the publication, or if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge, and the evidence that he may have to produce in his defence, and that which the collector may adduce in support of his representation, if it shall be proved to the satisfaction of the court that the defaulter is guilty of the charge, the court shall adjudge him to pay a fine according to the nature of the offence, and his situation and circumstances in life. If the defaulter shall not appeal to the provincial court of appeal within the time limited for preferring appeals to that court, in Section 12, Regulation V. 1793, the court is immediately to transmit to the Governor General in Council, a copy of the decree, and of all the proceedings respecting the charge. If the defaulter shall appeal to the provincial court of appeal within the prescribed time, and that court should confirm the decision of the city or *zillah* court, or if the case shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring ap-

Judge, upon the charge appearing to him well founded,

to issue a publication, requiring the defaulter to deliver himself up to the court within four weeks.

In what languages the publication is to be written, and when and where it is to be fixed up.

Decree to be passed by the city or *zillah* court, in the event of the defaulter not surrendering himself within the limited period, or of his delivering himself up within the time, and the charge being proved against him.

Court to transmit the decree and proceedings to the Governor General in Council, if the defaulter should not appeal within the prescribed time.

If the defaulter should appeal, and the decision of the city or *zillah* court be confirmed, the provincial

peals to that court, in Section 10, Regulation VI. 1793, the provincial court of appeal is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the city or *zillah* court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court of appeal, and the Sudder Dewanny Adawlut shall confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the city or *zillah* court shall decree the charge not proved, he is nevertheless to detain the defaultor in confinement, in the same manner as if the process prescribed in Sections 9. and 20. or either of them, had been duly served upon him, and he had obeyed it; and the collector is immediately to obtain from the court a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it or not, as may appear to them proper. If that Board should order an appeal to be preferred, and it shall be lodged within the limited time, and the provincial court of appeal should reverse the decision of the city or *zillah* court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it should be appealable, and an appeal shall not be preferred within the limited time, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the city or *zillah* court, to the Governor General in Council. If the judge of the city or *zillah* court shall decree the charge proved, and the decision shall be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and proceedings of the city or *zillah* court, and the provincial court of appeal, with a letter stating his objections to the decree of the latter court, to the Board of Revenue, who are to order him to appeal the cause to the Sudder Dewanny Adawlut, (provided the cause shall be appealable,) or not, as they may think proper. If the cause shall be appealed, and the appeal shall be received in the Sudder Dewanny Adawlut, and that court should reverse the decision of the provincial court, and confirm that of the city or *zillah* court, the Sudder Dewanny Adawlut is immediately to transmit a copy of its decree and proceedings, and of the decrees and proceedings received from the provincial court, to the Governor General in Council. And that no doubt may be entertained from what decrees passed by the provincial court of appeal under this section, an appeal shall lie to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last mentioned court, unless the fine adjudged to be paid by the defaulter shall exceed one thousand sicca rupees. Decrees that may be passed under this section by the *dewanny adawlut* of the city, or any *zillah*, or the provincial court of appeal, or by the Sudder Dewanny Adawlut, adjudging a fine to be paid by a surety, are not to be carried into execution in any case whatever, without an order from the Governor General in Council confirming the decree. It shall be at the option of the Governor General in Council, within four weeks after the decree may be received by him, either to order the decree to be executed, or to alleviate the fine. The court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine that may be imposed upon the defaulter, is to levy the amount of it, by the same process by which it is directed to enforce decrees of the court, and to pay the amount to the collector. But if the Governor General in Council, within four weeks after the decree shall have been received by him, shall not either order it to be executed, or alleviate the fine, the decree shall stand good against the defaulter, and the court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving directions for that purpose, is to levy the amount of the fine in the manner above prescribed. The process which the collector may institute in the *dewanny adawlut* or the city or *zillah* under this section, as well as the appeals that may be preferred from the city or *zillah* court to the provincial court of appeal, and from the decision of that court to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, are to be defended or carried on by the *vakeel* of Government, and at the public expence.

court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the defaulter not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed, in case the suit should be appealed to them, and they should confirm the decision of the provincial court.

Collector how to proceed, if the city or *zillah* court should judge the charge not proved.

Rules for cases in which the provincial court of appeal may reverse such decision of the city or *zillah* court.

Rules for cases in which the charge may be adjudged proved in the city or *zillah* court, and the provincial court of appeal shall reverse the decision.

Sudder Dewanny Adawlut how to proceed, in the event of its reversing such decision of the provincial court.

Rule for determining from what decrees of the provincial court of appeal passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

Decrees passed under this section, not to be carried into execution without the sanction of the Governor General in Council.

Option reserved to the Governor General in Council of confirming or alleviating the fine, within four weeks after the decree may be received by him.

If the fine shall be confirmed or alleviated, by what court, and how it is to be levied.

Process and appeals instituted under this section, to be conducted by the *vakeel* of Government, on the part of the collector, and to be carried on at the public expence.

XXIX. Although in the ordinary course of the collections, the transfer or sale of landed property for balances, must, of course, take place for the most part towards the end*

Governor General in Council not precluded from ordering the lands of a de-

* Rescinded by clause first, Section 2, Regulation XI. 1822.

faulting proprietor to be sold, before the conclusion of the year, whether he be in confinement or not.

end of the year, yet nothing in this regulation is to be construed to preclude the Governor General in Council from ordering the sale of the lands of a defaulting proprietor of land, who may not have instituted a suit to contest the arrears, whether he may be in confinement or not, to be made at any time previous to the close of the year in which the arrears may become due, should it in any case appear to him inexpedient to postpone the sale until after the expiration of it. And at whatever period the sale of the lands of a proprietor in confinement may be ordered to take place, if the arrear shall not have been adjudged to be due from him by a decree of a court of justice, and provided he shall previous to the day of sale, deny the justness of the whole or a part of the arrear under his engagements, and give the security required in Section 16, the sale of his lands is not to be made until the cause shall be finally decided. If the sale of the lands shall have been ordered to be made at Calcutta, the proprietor is either to give the required security to the Board of Revenue previous to the day of sale, or to the collector of the district, ten days prior to the day fixed for the sale, so that there may be sufficient time for him to notify the acceptance of the security to the Board of Revenue. The collector is not to accept of the security, unless he shall be satisfied that it is good and sufficient. If he shall accept of the security, he is to forward notice of the acceptance of it to the Board of Revenue, in duplicate, by two different posts, to provide against the non-arrival of the notice which may be first despatched. If the sale of the lands shall be ordered to be made by the collector of the district, he is empowered to suspend it, upon such security being delivered to him previous to the sale. But he is immediately to report the circumstances to the Board of Revenue, for the information of the Governor General in Council. If the Governor General in Council shall annul the lease of any farmer in arrear under Section 28, the defaulter is to be at liberty to prosecute the talookdars, zemindars, putteedars, distinct or common, or under-farmers, or ryots, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.

Rules of land of proprietors in confinement for arrears, which have not been adjudged to be due by a judicial decree, wherever ordered to be made, to be suspended, if the proprietor shall deny the arrear to be due, and give the security required in Section 16.

Where and when such security is to be given, in the event of the sales being ordered to be made at Calcutta, or in the district.

Disputes used farmers may prosecute for the arrears due to them.

Collector to attach lands of surety whom he may proceed to confine, sufficient to answer the demand against them.

XXX. When a collector shall proceed to confine the surety of any proprietor or farmer of land, in the cases authorised in this regulation, he is immediately to cause such portion of the surety's lands as he may estimate to be sufficient to make good the amount of the demand, in the event of their being sold, to be attached under the rules prescribed in Section 14. and 15. for the attachment of the lands of defaulting proprietors. If the surety shall not possess any landed property within the province of Benares, but shall possess lands in either of the provinces of Bengal, Behar, or Orissa, the collector is to depute an *ameen* into the *zillah* in which such property may be situated, with a letter, specifying the amount of the demand on him, and the property to be attached. The collector of such *zillah* is immediately to order a *peon* to point out the property to the *ameen*, who is to keep it in attachment, until the Board of Revenue shall have obtained the sanction of the Governor General in Council for the sale of it. The *ameen* is to apply the amount of the collections from the lands, after deducting the expences of his establishment, towards the discharge of the public revenue, which he is to pay to the collector of the *zillah* in which the lands may be situated. If any surplus shall remain after making good the public dues, it is to be appropriated towards the discharge of the demand on account of which the attachment of the lands may have been made. If the property of the surety that may be attached, shall be too inconsiderable to admit of its being charged with the expence of an *ameen*, the collector, to whom the money due from the surety may be payable, is to apply to the collector of the *zillah* in which the lands may be situated, to order the nearest *tehsildar* or native officer employed under him in the business of the collections, to take charge of the lands, and the collector to whom the application shall be made is to comply with it; and the *tehsildar* or native officer to whose charge he may commit the lands, is to perform the duties prescribed to the *ameen* in Section 6, Regulation XIV. 1793, and under the same restrictions and penalties. The collector of the *zillah* in which the lands may be situated, is not to be liable to any prosecution on account of the attachment, but the collector in conformity to whose application the attachment may take place, is to be responsible for the consequences, in the same manner as if the lands had been situated in his own jurisdiction. The Board of Revenue are to apply to the Governor General in Council, for his sanction for the sale of the

How the collector is to proceed, if the surety possess no lands in the province of Benares.

Board of Revenue to apply for permission to sell the lands of the surety.

lands belonging to the surety, either during the course of the year in which they may be attached, or after the close of it, as they may deem advisable.

Collector to attach lands ordered to be sold.

XXXI. When lands are ordered to be sold under this regulation, the collector, (unless the lands shall have been previously committed to the charge of a *tehsildar*, or other native officer, in which case such officer is to perform the duties hereafter specified in this section,) is immediately to issue instructions to the *tehsildar* of the *pergunnah*, to hold the lands in attachment, collect the rents and revenues under the rules and restrictions prescribed regarding lands under attachment in Section 15, and to prevent waste being committed by the defaulter, and furnish any information that may be required for the adjustment of the *jumma* to be assessed on the lands directed to be sold.

Where sales of land that may be ordered to take place under this regulation shall be made.

Publication of notice of such sales where to be made, and what it is to contain.

XXXII. Sales of lands that may be ordered to take place under this regulation, are to be made by the collector in his public office, or at Calcutta, in the office of the Board of Revenue, under the superintendence of their secretary, according as the Governor General in Council may direct. Previous to any such sale taking place, a publication is to be made in the Persian language, and the Hindoostanee language and Nagree character, specifying the* jumma *at which the lands, or each lot of them, if they are ordered to be sold in two or more lots, will be disposed of, and the place, date, and hour of the day, fixed for the sale, and the proportion of the revenue payable on account of the year in which the sale of the lands may take place, for which the purchaser is to be responsible; or, if the exact proportion cannot be ascertained, the rules by which the amount of it is to be adjusted. The publication is to be fixed up in some conspicuous place in the court-room of the* dewanny adawlut *of the city or zillah, the office of the collector, the principal town or village in the lands to be sold, and the office of the secretary to the Board of Revenue. The publication is to be fixed up at the several places above mentioned, for a term not less than one month before the sale takes place. All expences attending the sale are to be deducted from the proceeds of the sale. The other conditions of sale hereafter specified, as well as any special stipulations that may be made, are to be fixed up in a conspicuous part of the room in which the sale may be directed to take place, on the day of sale, and during the three days preceding it.*

Expences of the sale from whence to be defrayed. Other conditions of sale, where, and for what period to be fixed up.

Penalty for purchasers not paying the purchase money by the stipulated period.

XXXIII. A deposit of five per cent. on the amount of the purchase money, is to be made at the time of the sale, by every purchaser of land that may be disposed of under this regulation. If the purchaser shall omit to discharge the purchase money within the period which may be stipulated, he is to forfeit the deposit to Government, and the lands are to be resold at his expence. If the lands shall be disposed of at a lower price than that offered by the first purchaser, he is to make good the deficiency. If a profit shall arise on the second sale, it is to be carried to the credit of the defaulter. If the first purchaser shall refuse or omit to make the deposit, or to pay, within the required time, the amount of the deficiency, and the expences arising on the resale, after being served by the collector in whose jurisdiction he may be, or reside, or by the Board of Revenue, if he shall be in Calcutta, with a written demand for the amount, for non-compliance with which, such defaulting purchaser shall be considered exactly in the same predicament, as sureties of proprietors or farmers of land, who omit or refuse to discharge any sum of money due from them, and he is to be proceeded against accordingly by the collector of the district, or of the zillah, in which he may be, or reside.

How much penalty is to be levied.

Purchasers of lands under this regulation, not to be responsible for arrears or suspensions on account of former years, unless otherwise stipulated in the conditions of sale.

By whom such arrears and suspensions are to be made good.

XXXIV. The purchasers of lands sold under this regulation, are not to be held responsible for any arrears or suspensions of revenue, that may be due to Government from the lands prior to the year in which the purchase may be made, unless it shall be otherwise stipulated in the conditions of sale. Arrears or suspensions not so stipulated to be made good by the purchaser, are to be paid by the former proprietor, and recourse is to be had to the remainder of his real, or to any other property, which he may possess, or to the confinement of his person, or to both his person and property, for the recovery of the amount. Arrears of rent or revenue that may be due to the defaulting proprietor, from his under-farmers, or ryots, preceding the date on which the lands may be sold, are to belong to him, and are to be recoverable by him by suit in the dewanny adawlut *of the*

* This and the two following sections are rescinded by clause first, Section 2, Regulation XI. 1822.

city

city or zillah. *The defaulting proprietor, however, shall be at liberty to transfer his right to such arrears to the new proprietor.*

Judge empowered to require the collector to shew cause why any defaulter is continued in confinement under a judicial decree, and how to proceed in such cases.

XXXV. Any person confined for arrears of revenue, or other demands of Government, under this regulation, either pursuant to a judicial decree, or without such decree, is to be at liberty to apply to the judge of the court of *dewanny adawlut* of the city or *zillah*, to require the collector to shew cause why he is continued in confinement. If the person making such application, shall be confined under a decree passed by the Sudder Dewanny Adawlut, or of the city, or a *zillah* court, or the provincial court of appeal, and the time prescribed for appealing from the decision shall have elapsed, the judge is not to enter into the merits of the case, but only to enquire whether the prisoner has discharged the amount of the decree, and the sums which may have become due from him subsequent to his confinement. If the prisoner shall not be confined under a judicial decree, but under the process which the collector is empowered by this regulation to observe, before conveying persons to jail for claims of Government, and he shall dispute the justness of the demand, the judge is not to enquire into the merits of the case, unless the party should renew his complaint, after the expiration of the period during which the collector, by the discretionary power vested in him by Section 11, is authorized to confine parties in arrear, which rule is hereby extended to demands on sureties and purchasers of land as far as it can be applied to them. If, however, the prisoner shall admit the justness of the demand for which he was confined, as well as any other claims that may be made upon him for sums stated to have become due from him subsequent to his confinement, and shall assert that the whole of such sums have been discharged by him, or otherwise apply to the court under Section 16, the judge is to proceed to enquire into the merits of the case. Upon examination of the prisoner's accounts of his payments, if it shall appear to the judge that the demands for which he may be in confinement have been liquidated, he is to release him, upon his giving security to make good any sum which the collector may state to be still due from him, in the event of the cause being appealed, and the sum being awarded in favour of Government. If the collector shall not object to the adjustment of accounts made by the court, or if he shall object to them, and the person confined shall omit to give the security above required, and the collector shall not appeal within the time limited for preferring appeals, the judge is to release the prisoner without taking any security. If it shall be found that the whole, or a part of the sum for which such person may be in confinement, remains undischarged, and he shall acquiesce in the adjustment of accounts made by the court, and shall have been confined on account of such demand for a term exceeding one year, the judge is empowered to release him, upon his giving good security to pay the sum remaining due from him, by instalments during the course of one year after his release. The collector and the prisoner are to be allowed to appeal from the decision which may be passed by the court under Section 16, and this section, in the event of either of them being dissatisfied with it, under the rules regarding appeals. The rules prescribed to the collector in the following section, respecting the decisions therein specified, are to be considered applicable to all decisions passed under Section 16, and this section.

Rule applied where a person is confined without a judicial decree.

Collector how to proceed in case of his being cast in a prosecution instituted against him in the city or *zillah* court, on account of sums demanded or received by him, as arrears of revenue.

XXXVI. Upon a decision being passed in the *dewanny adawlut*, by which the whole or any part of a sum of money that may have been demanded, or actually received by the collector, as an arrear of revenue under this regulation, from any proprietor or farmer of land, shall be adjudged not to be due, the collector is to apply immediately to the court through his own *vakeel*, for a copy of the proceedings and decree. The court is to order copies of the proceedings and decree, to be delivered to the collector with all practicable despatch. The collector is to forward the papers without delay to the Board of Revenue, with a letter stating his objections to the decree. If the Board shall be of opinion that the decision is not well founded, they are to authorise the collector to appeal the cause to the provincial court of appeal. If that court shall confirm the decision of the city or *zillah* court, the collector is to apply for, and the court is to grant, a copy of their proceedings in appeal, exclusive of the decree and proceedings received from the city or *zillah* court. The collector is to forward the decree and proceedings of the provincial court, to the Board of Revenue, with a letter, containing his objections to the decree of that court. If the Board shall be dissatisfied with the decision of the provincial court of appeal, and the cause shall be appealable to

the Sudder Dewanny Adawlut, they are to direct the collector to prefer an appeal to that court. If the Board of Revenue are satisfied with the decision of the provincial court of appeal, they are to direct the collector not to prefer an appeal to the Sudder Dewanny Adawlut. In all cases in which the Board of Revenue may order the collector to prefer an appeal to the provincial court, the collector is to be indemnified by Government for all costs and damages that may have been awarded against him by the city or *zillah* court. On the other hand, if the Board of Revenue shall deem the decision of the city or *zillah* court equitable, and not direct an appeal, the collector is to defray all the costs and damages that may have been awarded against him in that court. The collector is nevertheless to be at liberty to appeal the cause, but at the risk of paying all costs and damages that may be adjudged against him in appeal, in the event of his being ultimately cast. Appeals in which the collector may be engaged, either in the provincial court of appeal, or the Sudder Dewanny Adawlut, in consequence of orders from the Board of Revenue, are to be carried on by the *vakeel* of Government, and at the public expence.

Collector to be indemnified for all expences incurred in suits in the city or *zillah* court, from decisions from which the Board of Revenue may direct an appeal.

XXXVII. If a collector shall be prosecuted under Section 16, and the prosecutor shall be cast, or be dissatisfied with the decision of the judge of the *dewanny adawlut* of the city or *zillah*, and appeal to the provincial court of appeal, the collector is to appoint one of the *vakeels* of the court to plead the cause. If the decree of the city or *zillah* court shall be confirmed, or the appellant should be dissatisfied with the decision of the provincial court of appeal, and appeal to the Sudder Dewanny Adawlut, and an appeal shall be admitted, the collector is to appoint one of the pleaders in that court to defend the suit. If the provincial court of appeal shall not confirm the decision of the city or *zillah* court, the collector is to apply to the provincial court for a copy of the proceedings and decree of the city or *zillah* court, and of their proceedings and decree in the appeal. The courts are to furnish the collector with these papers with all practicable dispatch, and the collector is to forward them to the Board of Revenue, with a letter, stating his objections to the decree in appeal. If the Board shall be of opinion, that the decree of the provincial court is not well founded, they are to authorize the collector to appeal to the Sudder Dewanny Adawlut. If the Board shall see no ground for appealing from the decision of the provincial court of appeal, the collector is nevertheless to be at liberty to prefer an appeal to the Sudder Dewanny Adawlut, but at the risk of paying all the costs and expences which may be awarded against him by that court, in the event of his being cast. All appeals that may be preferred by the collector to the provincial court of appeal, or to the Sudder Dewanny Adawlut, or in which he may be respondent, under this section, agreeably to the orders of the Board of Revenue, are to be carried on at the public expence, and conducted by the *vakeel* of Government, who is to be furnished with the necessary instructions for that purpose by the collector.

If persons prosecuting under Section 16, shall be cast, and appeal, the collector is to nominate one of the *vakeels* of the provincial court of appeal, to defend the appeal.

If the decision of the city or *zillah* court should be confirmed, and the cause be appealed to the Sudder Dewanny Adawlut, and an appeal be admitted, the collector is to appoint one of the *vakeels* of that court to defend the appeal.

Collector how to proceed, if the provincial court should not confirm the decision of the city or *zillah* court.

Board of Revenue to order the collector to appeal, if they think the decision of the provincial court not well founded.

If the Board of Revenue shall not direct an appeal, the collector is to be at liberty to appeal, but at his own risk.

All appeals preferred by the collector under this section, agreeably to the orders of the Board of Revenue, to be carried on by the *vakeel* of Government, and at the public expence.

XXXVIII. In every case in which a collector may be prosecuted in the *dewanny adawlut* of the city or any *zillah*, under this regulation, for sums demanded or received by him on behalf of Government, from any proprietor or farmer of land, or from any surety, or from any purchaser of land, or for any sums demanded, or received, or taken by him, directly or indirectly, for his own use, from any of the abovementioned descriptions of persons, over and above what he may be entitled to demand on behalf of the public, or for any acts done in his official capacity, that may be repugnant to this regulation, or which may not be warranted by it, and in appeals that he may have preferred without the orders of the Board of Revenue, he is to appoint any of the authorized *vakeels* of the court before which the suit may be brought, to plead the cause.

Collector to appoint *vakeels* of the city or *zillah* court, to defend suits preferred against him under this regulation, and to nominate *vakeels* of the court of appeal, to carry on appeals, which he may have preferred without the orders of the Board of Revenue.

XXXIX. In prosecutions that may be instituted in the *dewanny adawlut* of the city or any *zillah*, against the collector of the province, for sums of money demanded, or directly or indirectly received, or taken by him, for his own use, from any proprietor or farmer of land, or any surety, or any purchaser of land, or for any acts done in his official capacity, that may be repugnant to this regulation, or which may not be warranted by it, and that shall not involve any claims to sums received or demanded by him on behalf of Government, in conformity to this regulation, (which claims are to be made the subject of distinct suits, and are to be tried in the manner and under the rules prescribed in this regulation,) the collector is not to forward the decree and proceedings to the Board of Revenue. The suit is to be considered entirely as a dispute of a private nature, between the collector and the prosecutor,

What suits instituted against a collector under this section, are to be considered of a personal and private nature, and how he is to defend them.

and the collector is to defend it at his own risk and expence, in the same manner as individuals amenable to the courts, and not employed by Government, are required to defend suits instituted against them.

Collector not to derive any pecuniary advantage from suits in which he may be engaged, except in the cases specified in Sec. 39, nor to suffer any loss, if his conduct is determined to be conformable to this regulation.

XL. The collector is not to derive any pecuniary advantage whatever from suits that he may institute, or which may be preferred against him, in any of the courts of justice, in his official capacity, with the exception of suits in which he may be engaged under the preceding section, the sums awarded to him in which he is to apply to his own use. On the other hand, it is not intended that the collector should sustain any loss in levying the dues of Government, in cases in which his conduct may be adjudged by a final judicial decree to be conformable to this regulation. The collector is accordingly to bring to the credit of Government in his monthly accounts, all sums whatever, (with the exception above specified,) that may be adjudged to him as costs or damages, by any of the courts of civil justice; and he is to insert at the foot of his monthly accounts, or in a separate account, or in his monthly accounts, under a distinct head, according as the Board of Revenue may deem advisable, all sums which he may disburse in conformity to this regulation, on account of process or suits directed to be carried on by the *vakeel* of Government, the costs and damages in which are expressly directed to be defrayed by the public, or in suits, the costs and damages in which may be ultimately defrayable by Government, but for which the collector is directed to be held responsible in the first instance. But he is in no case to charge these disbursements in his accounts, without previously obtaining the special sanction of the Board of Revenue for that purpose. Until such sanction is procured, the collector is to be held answerable for the disbursements.

Collector to bring to account all costs and damages that may be adjudged to him, with the exception above specified.

Collector to issue from the public treasury, and note in his accounts, the expences of suits that are at all events to be defrayed by Government, as well as the expences of suits that may be ultimately defrayable by Government, but not to insert such expences in his accounts, without the sanction of the Board of Revenue.

Board of Revenue to report to the Governor General in Council, any cases in which a collector may have been compelled to pay costs or damages, and for which they may be of opinion he ought not to be made responsible.

XLI. If a collector shall have been compelled to pay costs or damages in any suit under this regulation, and upon his stating the case to the Board of Revenue, it shall appear to them, upon a consideration of the circumstances of it, that he ought not to be made responsible for the amount, the Board are to transmit the case to the Governor General in Council, who will determine whether the collector shall be made responsible for such costs or damages, or not.

Cases in which security is to be demanded from the collector for costs or damages, or for the performance of the decrees of the court.

XLII. Security is not to be demanded from the collector for his personal appearance, in any suit in which he may be engaged under this regulation. Nor shall any security be required from him for the payment of the costs, or for the performance of the decrees or orders of the court, in suits which are directed by this regulation to be carried on by the *vakeel* of Government, and at the public expence. In suits for sums demanded or received by the collector on behalf of Government, for the costs and damages in which he is declared eventually responsible, the courts are to require the same security from the collector for the payment of the costs and damages, as would be taken in similar cases from individual suitors; but they are not to require any security from him, for the performance of their decrees respecting the sums which may constitute the subject of the suits, as Government will be answerable for the due performance of them. In the suits described in Section 39, which may be instituted against the collector, he is to give the same security for the payment of the costs, and the performance of the decrees and orders of the courts, as would be required from individual suitors in similar cases. If a collector shall refuse or omit to pay within the limited period, any sum of money that may be ordered to be levied from him, either on account of the suits described in Section 39, or as costs or damages in any other suits for the expences incurred in which he is declared eventually responsible, the court is to levy the amount from his surety, by the customary process. If the court shall not be able to obtain payment from his surety, the judge is to report the circumstances to the Governor General in Council, who will order the amount to be paid from the public treasury, and deduct it from the allowances which may be receivable by the collector from Government. In all other cases, if a collector shall omit or refuse to obey any order or decree of a court of judicature, the court from which the process shall have issued, is to fine him according to the nature of the offence. In the event of the collector refusing or omitting to pay the fine, the court is to report the circumstances to the Governor General in Council, who, provided he shall approve of the fine, will order the amount to be stopped from the allowances which may be receivable by such collector from Government.

Court how to proceed in the event of a collector omitting or refusing to obey any order or decree.

Board of Revenue to issue instructions to the collector

XLIII. The Board of Revenue are to issue such instructions as they may think advisable to the collector, regarding the mode of inserting in his monthly accounts, the sums

which may be paid to him as costs and damages, in consequence of the orders or decrees of any of the courts of civil judicature, or noting at the foot of his accounts, or charging under a separate head in his monthly accounts, the sums which he may disburse as costs or damages, which are expressly directed to be defrayed by Government, whatever may be the final decision in the cause, or that may be ultimately defrayable by Government, although in the first instance the collector is to be held responsible for them, and to require such vouchers as they may deem necessary for such receipts and disbursements, as well as for the sums which the courts may adjudge to be repaid from the public treasury, or not to be due to the public.

lector regarding the mode of inserting or not inserting in his accounts, his receipts and disbursements in the suits herein mentioned, and to require such vouchers for the sums as they may think proper.

XLIV. When any process or order shall be issued by any of the courts of civil judicature to the collector, in suits instituted under this regulation, the register of the court immediately serving the process or order, is to transmit it under a cover sealed in the form of a letter, and superscribed with his name and official appellation, and addressed to the collector. The collector is to acknowledge the receipt of the process or order on the day on which he may receive it, by a letter addressed to the register of the court by which it may have been served.

Process issued against collectors under this regulation how to be served.

XLV. To facilitate the communication between the collector, and the *vakeels* in the provincial court of appeal, and the Sudder Dewanny Adawlut, who may be entrusted with the conduct of any appeals, (including appeals from decisions in the suits described in Section 39,) in which the collector may be engaged under this regulation, either whilst he may continue in the office of collector of the district in which the suits may have arisen, or after his removal from the office, the collector is permitted to forward free of postage, any instructions regarding such appeals, which he may have to transmit to the *vakeels* of those courts. The instructions are to be enclosed under cover, sealed and directed to the *vakeel*. The instructions so sealed and directed, are to be transmitted under a sealed cover, addressed to the register of the court in which the cause may be depending, and superscribed with the name, and the official appellation of the collector, or that which he bore when the cause of action arose. The register of the court, immediately upon receiving the instructions, is to deliver them sealed to the *vakeel* to whom they may be directed. Any person who may be removed from the office of collector of the province, and who may have a suit or suits depending in the *dewanny adawlut* of the city, or any *zillah*, after his removal from the office, is likewise empowered to forward instructions to his *vakeel*, respecting such suit or suits, through the register of the court. In like manner, the *vakeels* in any of the courts to whom the pleading of suits may be committed under this regulation, by persons holding the office of collector, or after they have been removed from the office, are authorised to forward any papers which they may have to convey to their employers by the public *dawk*, free of postage. The papers are to be enclosed in a cover, sealed with the seal of the *vakeel*, and the register of the court is to transmit the papers so sealed, in a cover sealed and addressed to the person to whom they are to be forwarded, and superscribe the cover with his official signature.

Collectors allowed to forward instructions to their *vakeels* in the courts of appeal, by the dawk, free of postage.

Instructions to be sealed, and enclosed under a sealed cover, addressed to the register of the court.

Persons removed from the office of collector, and having suits depending in the city or *zillah* court, empowered to forward instructions to their *vakeels* by the public *dawk*, and through the register of the court.

Vakeels in any of the courts employed by collectors under this regulation empowered to forward papers to their constituents free of postage, through the register of the court in which the cause may be depending.

XLVI. Arrears of *tuccavy*, or any money advanced by Government to proprietors or farmers of land, for making or repairing embankments, reservoirs, or watercourses, or other improvements to their estates or farms, are to be recovered by the same process as is prescribed for exacting payment of arrears of revenue, and under the same rules and restrictions, as far as they may be applicable.

Sums advanced as *tuccavy*, or *poolbundy*, &c. to be recovered under this regulation in the same manner as arrears of revenue.

XLVII. No collector is to be liable to prosecution for any official acts of his predecessor. But persons who may be removed from the office of collector of the revenue of the province are to carry on, in the same manner as if they had continued in the office, all suits of the nature of those described in Section 39, in which they may be engaged, and all suits preferred against them in the city or any *zillah* court, for sums that they may have demanded or received on behalf of Government, and for the costs and damages in which they are declared eventually answerable; as well as all suits, being appeals from decisions in suits of the last mentioned description, excepting such of those appeals as they may have preferred, or in which they may have become a party, in consequence of orders from the Board of Revenue.

Collector not to be liable to prosecution for the acts of his predecessors. What suits persons removed from the office of collector are bound to prosecute or defend after their removal.

XLVIII. If the collector of the province of Benares shall die, or be removed from his office, his successor is to carry on all unfinished process or suits in the courts of *dewanny adawlut*, directed by this regulation to be conducted by the *vakeel* of Government, and at the

Collector to carry on the unfinished suits and processes herein specified, which may have been instituted under his predecessors.

the public expence; and all appeals from the decrees of the city court, or the *zillah* courts, or the provincial court of appeal in such cases; as also all appeals from the decrees of the city and *zillah* courts, or the provincial court of appeal, in which the former collector may have been engaged, in consequence of orders from the Board of Revenue, and which are directed to be pleaded by the *vakeel* of Government, and at the public expence.

Cases in which the Board of Revenue are to take upon themselves the prosecution or defence of appeals, in the Sudder Dewanny Adawlut.

XLIX. In cases in which the Board of Revenue may judge it expedient, or in which they may receive orders for the purpose from the Governor General in Council, they are to take upon themselves the superintendence of the prosecution or defence of any appeal, in the Sudder Dewanny Adawlut, which a collector may prefer or be engaged in pursuant to their orders, instead of leaving the superintendence of the appeal to him.

If the proceeds of the sale of the *mulgoozaree* lands of any defaulter are not equal to the demand against him, his other property to be sold to make good the deficiency.

L. If the lands subject to the payment of revenue to Government, belonging to any defaulting proprietor or farmer of land, or any surety or purchaser of land, which may be sold under this regulation, shall not produce a sum sufficient for the liquidation of the public demand, any other real or personal property which the defaulter may possess, is to be attached and sold to make good the deficiency, under the same rules as his lands subject to the payment of revenue to Government are directed to be sold, as far as those rules may be applicable to such property. And if any property shall be attached, and ordered to be put up to sale, and the sale shall be countermanded in consequence of the proprietor discharging the claim upon him, or otherwise, he is nevertheless to be held responsible for all expences that may be incurred in consequence of the attachment of the property, in the same manner as if the sale of it had taken place; and in the event of his omitting to discharge the amount, it is to be levied by the same process as the demand for which the property originally ordered to be sold may have been directed to be levied.

Expences attending the attachment of property ordered to be sold, but the sale of which may be countermanded, to be defrayed by the proprietor.

City and *zillah* courts how to proceed, in cases in which persons may dispute the validity of the engagements under which demands may be made upon them by the collector, or have any objections to make to the engagements, either wholly or partially under this regulation, or deem themselves aggrieved by acts done by the collector in conformity to special orders from the Governor General in Council, or the Board of Revenue.

LI. If a proprietor, or farmer, or a surety, or a purchaser of land, shall deem himself aggrieved under this regulation, by any act which may be done by the collector, in conformity to special orders from the Governor General in Council, or the Board of Revenue, or if the collector shall demand a sum of money under this regulation, on behalf of Government, from any of the abovementioned descriptions of persons, and the stated defaulter shall admit the demand to be conformable to the engagements or stipulations under which the collector may make the demand, but deny their validity, or have any objections to make to them, either wholly or in part, under any regulation passed by the Governor General in Council, and printed and published in the manner prescribed in Regulation XLI. 1793, the collector is not to be liable to any prosecution on account of such act, or the demands that he may make conformably to such engagements, or stipulations, which are to be held valid, until they are set aside, or altered by a final judicial decision; and the proprietor, or farmer of land, or surety, or purchaser of land, is to discharge the demands that may be made upon him by the collector under such engagements or stipulations, until the decision shall be passed. In the cases above specified, Government is to be considered as a party in the cause with its subjects, and the proprietor or farmer of land, or the surety, or purchaser, is to present a petition to the judge of the *dewanny adawlut* of the city or *zillah* in which the cause may be cognizable, stating his objections to the act, or to the engagements, or stipulations, and praying that the Governor General in Council will order the *dewanny adawlut* of the city or *zillah*, to try the points or matters contested under the regulations. The judge to whom the petition may be presented, is to forward it immediately to the Governor General in Council, who, provided he shall not think it proper to afford the redress that may be solicited by the petitioner, and the courts of justice shall be competent to try the cause, will direct the court in which it may be cognizable, to proceed to the trial of it. If the Governor General in Council shall order the cause to be tried, the judge of the court is to send a written notification of the order to the complainant, and the cause is to be considered as filed in the court from the date of the notification. The court is then to proceed to try the suit, under the same rules and regulations as are prescribed for the trial of suits between individuals. The collector is to carry on, under the orders of the Board of Revenue, all suits that may be instituted against Government in conformity to this section, and to issue the necessary instructions to the *vakeel* of Government, in the city or *zillah* court, and in the provincial court of appeal, or the Sudder Dewanny Adawlut, should the cause be appealed to the former, or both of those courts. In the event of Government being cast in the city or *zillah* court, or

in the provincial court of appeal, the collector is to send copies of the decree and proceedings of the court, (which are to be delivered by the court to the collector as soon as may be practicable, upon his applying for them,) with a letter stating his objections to the decision, to the Board of Revenue, who are to submit them, with their opinion on the case, to the Governor General in Council, who will order an appeal to be preferred from the decision or not, as he may deem advisable. All costs and damages that may be awarded against Government in suits instituted under this section, are to be defrayed from the public treasury.

LII. The rules respecting the collector contained in this regulation, are to be considered equally applicable to the assistant to the collector, or any other person who may be appointed by the Governor General in Council to officiate as collector, during the temporary absence of the collector, or whilst the office may be vacant.

Rules in this regulation regarding the collector, to be held applicable to the acting collector.

LIII. No part of this regulation is to be construed to authorise the confinement of the person of any joint proprietor of an estate, committed to the charge of a manager, (as is now the case with certain estates in the *pergunnah* of Kerenda,) whilst such manager remains responsible. Nor to empower the collector to take a female proprietor of land into custody, or order any such proprietor to attend him in person, under any pretext whatever.

Joint proprietors of estates committed to the charge of a manager, not to be confined under this regulation for demands of Government.

A. D. 1795. REGULATION XX.

A REGULATION *for disposing of Malguzaree and Lakheraje Lands, at public Sale, pursuant to Decrees of the Courts of Justice.*—PASSED *by the Governor General in Council, on the 27th March 1795, corresponding with the 16th Chyte 1201 Bengal era; the 22d Chyte 1202 Fussily; the 16th Chyte 1202 Willaity; the 22d Chyte 1852 Sumbut; and the 5th Ramzaan 1209 Higeree.*

Preamble.

IN cases in which portions of estates may be ordered to be sold in satisfaction of decrees of the courts of judicature, it is necessary for the security of the public revenue, that the *jumma* to be charged on the lands directed to be disposed of, should be adjusted agreeably to the principles prescribed in clause ninth, Section 7, Regulation V. 1795, and in Section 7, Regulation XXVII. 1795. The Board of Revenue, and the collector, being in possession of the accounts and information necessary for the adjustment of the *jumma*, and as the superintending the details of the attachment and sale of lands, would necessarily occupy much of the time of the courts, and often occasion a delay in the enforcement of the decrees; and it being necessary that Government should have the means of compelling the proprietors to furnish the requisite accounts and information, for enabling the public officers to apportion the *jumma*; and that the courts by which the decrees may have been passed, or to which the enforcing of them may be committed, should be vested with a power of countermanding or postponing the sale, in the event of the amount of the decree being discharged previous to the sale being made, or for other cause that may appear to them sufficient; the following rules have been accordingly enacted.

Copy and translate of decrees to be enforced by the sale of *malguzaree* lands, to be transmitted to the Board of Revenue.

II. When a court of civil judicature shall have occasion to have recourse to the sale of lands paying revenue to Government, in satisfaction of a decree, the court by which the decree is to be enforced, is to transmit a copy of the decree, without any other part of the proceedings, and a translate of it in English, to the Board of Revenue.

Board of Revenue to proceed to the sale of the lands without delay.

III. The Board of Revenue are to proceed, with all practicable dispatch, to dispose of such portion of the lands of the party against whom the decree may be given, as may be sufficient to make good the amount of it. The Board are to cause the lands to be disposed of at the presidency, or in the district in which the lands may be situated, according as they may deem most advantageous for the proprietor. The Board are to report for the information of the Governor General in Council, all orders for sales of land which they may issue under the powers vested in them by this regulation, immediately on the same being issued by them.

Orders for sales of lands to be reported to the Governor General in Council.

Public revenue to be charged on the lands to be sold, to be fixed agreeably to clause ninth, Section 7, Regulation V. 1795, and Section 7, Regulation XXVII. 1795.

IV. The public *jumma* or revenue to be charged on the portion of any estate ordered to be put up to sale, is to be adjusted agreeably to the principles prescribed in clause ninth, Section 7, Regulation V. 1795, and in Section 7, Regulation XXVII. 1795.

Board of Revenue empowered to order the attachment of lands directed to be sold.

V. The Board of Revenue are empowered, in cases in which it may appear to them expedient, to direct the collector to attach the lands ordered to be sold, by deputing an *ameen* to take charge of them, or by placing them under the nearest *tehsildar*, or other revenue officer. The officer to whom the lands may be committed, is to collect the rents and revenues, to prevent waste being committed by the proprietor, and to furnish any information that may be required for the adjustment of the *jumma*.

Expences of the attachment and sale, to be defrayed by the proprietor.

VI. The expences attending the attachment and sale of the lands, after being approved by the Board of Revenue, are to be charged to the account of the proprietor, and are to be defrayed either from the collections made from the lands, or from the proceeds of the sale, if the collections shall be insufficient for that purpose.

Proprietors of the lands may appoint officers to keep counterparts of the *ameen's* accounts.

Rules to be observed by the *ameen* in making the collections.

VII. The proprietor of the lands to be sold, may appoint his *dewan*, or any other person whom he may think proper, to keep a counterpart of the accounts of the receipts and disbursements of the *ameen*. The *ameen* is to collect according to the engagements that may subsist between the proprietor, and the other landholders and *putteedars*, distinct and common, and the under-farmers and *ryots*, and is not to make any alterations whatever in such engagements, or exact more than the amount specified in them; and he shall be liable to a prosecution in the *dewanny adawlut*, for any alteration or infringement of such engagements in opposition to this section. In cases in which no engagements may exist between the proprietor, and the other landholders and *putteedars*, distinct or common, or under-farmers, or *ryots*, the *ameen* is to collect from them according to the established rates and usages of the *pergunnah*. The *ameen* shall likewise be subject to a prosecution by the proprietor or proprietors of the estate, for embezzlement, or injuries done to the estate, or farm, during the time that the collection of the rents and revenues of it may be entrusted to him.

Rules in the preceding section applicable to *tehseldars*, or other officers appointed to take charge of the lands ordered to be sold.

VIII. The rules in the preceding section with regard to *ameens*, are to be considered equally applicable to *tehseldars*, or other officers, to whose charge lands ordered to be sold may be committed.

Punishment for resisting, or causing to be resisted, the officer deputed to attach the lands to be sold.

IX. If a proprietor or proprietors, or, (if the lands be let in farm,) a farmer, or his or their surety or sureties, shall resist or cause to be resisted, the *ameen*, or other officer, whom the collector, by the authority of the Board of Revenue, may direct to attach lands ordered to be sold, the collector is to proceed against the offender, in the manner in which he is directed in Regulation VI. 1795, to proceed against proprietors and farmers, or their sureties, who resist the process which he may issue under that regulation; and all the rules contained in that regulation, respecting proprietors, *putteedars*, farmers, or sureties, who may resist, or cause to be resisted, the process issued by the collector under that section, are to be considered applicable to those who may resist, or cause to be resisted, the officer who may be ordered by the collector to attach their lands under Section 5. of this regulation. Any other description of persons guilty of the offence specified in this section, shall be subject to the same process and punishment, as sureties so offending.

Penalty for proprietors or farmers who may not attend, or depute an agent, with the accounts and information necessary for the adjustment of the *jumma*.

X. The proprietor, or, (if the lands be let in farm,) the farmer of the lands ordered to be sold, upon receiving a written order for that purpose from the collector, under his official seal and signature, shall attend the *ameen* or other officer in person, or order an agent duly empowered and informed, to attend him, if the collector shall deem it sufficient to require the attendance of an agent only, with any accounts of the collections and *jumma* of the lands ordered to be sold, or the estate of which they may form a part, for the purpose of adjusting the *jumma* at which the lands are to be disposed of. If the proprietor or farmer shall omit or refuse to attend, or to cause an agent of the description above specified to attend, by the time prescribed in the collector's requisition, with the accounts and information required, the Board of Revenue are empowered to impose such daily fine upon him until he complies with the collector's requisition, as they may think adequate to his situation and circumstances in life, reporting however the amount for the confirmation of the Governor General in Council. The fine is to be levied by the same process as is prescribed for the recovery of arrears of revenue.

Proprietors and farmers to cause the attendance of the *putwarees* and *zemindaree* officers on the *ameen* or officer, on receiving a written requisition to that effect from the collector.

XI. The proprietor or farmer shall likewise cause the *putwarees* to attend the *ameen*, or other officer, to assist him in making the collections, and for the purpose of furnishing him with the accounts and information necessary for adjusting the *jumma* as required by Section 9, Regulation XXVII. 1795; as well as any other of the *zemindaree* officers, whose assistance or attendance may be required for the above purposes, upon receiving a written requisition from the collector to that effect; and in the event of his omission or refusal, he shall be subject to the same penalty as for the breach of the rules in the preceding section.

Publication of the sale where to be made, how long to be fixed up, and what it is to contain.

XII. Previous to any sale of land taking place, a publication is to be made in the Persian language, and in the Hindoostanee language and Nagree character, specifying the *jumma* at which the lands, or the several lots of them, if they are ordered to be sold in two or more lots, are to be disposed of, and the place, date, and hour of the day, fixed for the sale, and the proportion of the revenue payable on account of the year in which the sale of the lands may take place for which the purchaser is to be responsible, or, if the exact proportion cannot be ascertained, the rules by which the amount of it is to be adjusted. The publication is to be fixed up in some conspicuous place in the court-room of the *dewanny adawlut* of the city or *zillah*, the office of the collector, the principal town or village in the lands to be sold, and the office of the Secretary to the Board of Revenue. The publication is to be fixed up at the several places above mentioned, for a term not less than one month before the sale takes place. The other conditions of sale contained in Sections 13. and 14, as well as any other stipulations that may be made, are to be fixed up in a conspicuous part of the room in which the sale may be directed to take place, on the day of sale, and during the three days preceding it.

Other conditions of sale to be fixed up in the room in which the sale is to take place.

Deposit of five per cent. to be made by the purchaser at the time of the sale.

Consequences of not paying the purchase money by the limited time.

XIII. A deposit of five per cent. on the amount of the purchase money, is to be made at the time of the sale, by the purchaser of the lands. If the purchaser shall omit to discharge the purchase money within the period which may be stipulated, he is to forfeit the deposit to Government, and the lands are to be resold at such purchaser's risk and expence. If the lands shall be disposed of at a lower price than that offered by the first purchaser, he is to make good the deficiency. If a profit shall arise on the second sale, it is to be carried to the credit of the proprietor.

First purchaser how to be proceeded against in the event of his omitting to make the deposit, or pay any deficiency or expence arising on a resale.

XIV. If the first purchaser shall refuse or omit to make the deposit, or to pay, within the required time, the amount of the deficiency, and the expences arising on the resale, after being served by the collector in whose jurisdiction he may be or reside, or by the Board of Revenue, if he shall be in Calcutta, with a written demand for the amount, similar to that directed in Regulation VI. 1795, to be served on proprietors and farmers of land from whom arrears of revenue are due, the amount shall be levied from him, by the same process as is prescribed for enforcing decrees of the courts of judicature.

Purchasers not to be responsible for arrears or suspensions of revenue, unless otherwise stipulated.

By whom arrears and suspensions of revenue are to be made good.

XV. The purchasers of land sold under this regulation, are not to be held responsible for any arrears or suspensions of revenue, that may be due to Government from the lands prior to the year in which the purchase may be made, unless it shall be otherwise stipulated in the conditions of sale. Arrears or suspensions not so stipulated to be made good by the purchaser are to be paid from the proceeds of the sale, or by the former proprietor, or recovered by the prescribed process against any other property which he may possess, or against both his property and person, if necessary. Arrears of rent or revenue that may be due to the former proprietor from the other landholders, or from the *putteedars*, distinct or common, or under-farmers or *ryots*, preceding the date on which the lands may be sold, are to belong to him, and are to be recoverable by him by suit in the *dewanny adawlut* of the city or *zillah*. The defaulting proprietor, however, shall be at liberty to transfer his right to such arrears to the new proprietor.

Rule respecting arrears of rent or revenue due to the former proprietor.

Courts empowered to countermand or postpone sales of lands ordered to be made in satisfaction of decrees.

XVI. Where a sale of the lands of any person shall have been ordered to take place in satisfaction of a decree, the court by which the decree may have been passed, or to which the enforcing of it may be committed, is empowered, in the event of the amount of the decree being discharged, or for other cause that may appear to them sufficient, to countermand or postpone the sale, by issuing a precept to that effect to the collector, if the lands shall have been ordered to be sold by the collector, or by an address to the Board of Revenue, if the lands shall have been directed to be sold by them, in which precept, or address, the court shall state their reasons for ordering the sale to be countermanded or postponed, and in the latter case, if it shall appear to them proper so to do, they may prescribe a date for the sale of the lands. The Board of Revenue and the collector, are to conform to the requisitions of such precepts or addresses from the courts, for countermanding or suspending the sale of lands.

Rules in the preceding sections, to be applied to lands held exempt from the payment of revenue to Go-

XVII. The rules in the preceding sections, are to be considered applicable to lands held exempt from the payment of revenue to Government, as far as they may be applicable to

vernment, as far as they are applicable.

Transfer of such exempted lands by sale in liquidation of *decrees*, not to affect the rights or claims of Government.

Transfers of lands to be entered in the public registers.

Sales to affect no more than the proprietary right of the party or parties on whose account they are declared to be made.

the circumstances thereof, with this addition, that the purchaser of such exempted lands is to be considered as having succeeded only to the rights of the former proprietor, and that the transfer is not to bar any claims of Government for the recovery of the public dues, under any existing regulation, or any other regulation that may be hereafter enacted.

XVIII. When the sale of the lands shall have taken place, the collector is to cause the entries of the transfer to be made in the public registers.

XIX. In view to the nature of tenures in the province of Benares, and to the numerous subordinate titles to land that exist within the same *talook*, or *zemindárce*, or village, or villages, the revenue assessed on which is often rendered payable under one *pottah*, by no more than one or more of the principal proprietors, as set forth in Regulations II. and VI. 1795, it is to be understood, that the purchaser of lands thus situated, in which there shall be more than one person possessing superior or subordinate proprietary claims, is to be considered as having purchased and succeeded to the proprietary rights only of the party or parties on whose account the sale shall be declared to be made, without otherwise affecting the other proprietary titles within the tenure.

A. D. 1795. REGULATION XXXV.

A REGULATION *for better enabling Individuals to recover Arrears of Rent or Revenue due to them.*—PASSED *by the Governor General in Council, on the 27th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Rumzaan* 1209 *Higeree.*

Preamble.

GOVERNMENT not admitting of any delay in the payment of the public revenue receivable from proprietors and farmers of land, justice requires that they should have the means of levying their rents and revenues with equal punctuality; and that the persons by whom they may be payable, whether under-farmers, dependant *talookdars*, *ryots*, or others, should be enabled, in like manner, to realise the rents and revenues from which their engagements with the proprietors or farmers are to be made good. Regulation XVII. 1793, was enacted with a view to enable all of the abovementioned descriptions of individuals, to enforce payment of arrears of rent or revenue, without application to the courts of judicature, as far as the amount might be realizable from the crops and personal property of the defaulter, leaving him to sue in the courts for redress, in the event of any sums being unjustly exacted from him. This was the leading principle of the regulation; but to prevent so extensive a power being abused on the first delegation of it, provisions were made for obliging the distrainer to withdraw the attachment on property, in the event of his demand being contested by the defaulter, and of his giving security to try the justness of it within a specific time in the court of judicature, and to pay interest on the amount, with costs, in case of its being decreed to be due. These provisions, however, have been found to counteract the object of the regulation, by the delay often unavoidable in bringing suits to a conclusion, and the opportunity which they afford to defaulters of protracting the discharge of just demands. In large estates, in which extensive tracts of country are underfarmed, the under-farmers often fall in arrear to so considerable an amount, as to render the realizing of the deficiency by the distress of their personal property impracticable. In such cases, the proprietors or farmers, are obliged to sue the defaulter or his surety in the *dewanny adawlut* for the recovery of the arrears, but as the persons to whom the arrears may be due, are not allowed any suspension in their payments to the public whilst the suit is depending, the lands of proprietors are liable to be sold, and the persons and property of farmers are subject to attachment, for deficiencies arising not from their own misconduct or mismanagement, but from breach of engagements on the part of their under-farmers. To obviate the above inconveniencies, the following rules have been enacted.

Sections 9. and 10. of Regulation XVII. 1793, and part of Section 8, rescinded.

II. Sections 9. and 10, Regulation XVII. 1793, by which distrainers are required to withdraw the attachment on distrained property, on the person from whom the arrear is demanded, denying the justness of the demand, and giving security to have it tried in the *dewanny adawlut* within a certain time, and to pay interest to the date of the decree, with costs, in the event of the demand being decreed to be just, are hereby rescinded, together with the following clause of Section 8, of that regulation, viz. "or he shall contest the demand, and procure the attachment to be withdrawn in the manner hereafter specified."

III.

Distrainers allowed to affix their signature only to writings for the distress of property.

III. In future, distrainers are permitted to affix their signature only to writings for the attachment of property, instead of both their seals and signatures, as required by Section 8, Regulation XVII. 1793.

Section 22, Regulation XVII. 1793, regarding the sale of distrained property rescinded.

IV. Section 22, Regulation XVII. 1793, regarding the mode of selling distrained property, is hereby rescinded, and the rule contained in the following section is adopted in lieu of it.

Rules regarding the sale of distrained property.

V. After the expiration of the fifth day, and before the elapse of the eighth day, calculating from the day following the day on which the attachment of the property of a defaulter shall have taken place, or, if the property attached shall consist of crops, or other ungathered products of the earth, after the elapse of the fifth day, and before the expiration of the eighth day, commencing from the day following the day on which such crops or products may have been stored as directed in Section 13, Regulation XVII. 1793, the distrainer shall apply to the *cauzy* of the *pergunnah* to have the same appraised and sold. Upon the receipt of such application, the *cauzy* shall proceed as follows. He shall fix up on the outer door of his own house, and at the place at which he may determine to dispose of the property, a list of the property attached, with a notice, which shall specify, firstly, the place at which the property is to be sold, which shall be on the spot where it may be lodged by the distrainer, or at the nearest *gunje*, *bazar*, or *haut*, or any place of public resort where the *cauzy* may be of opinion it is likely to sell to the best advantage; secondly, the day on which it is to be sold, which shall be the fifteenth day, commencing from the day following the day on which the attachment may take place, unless the property shall consist of crops or other ungathered products of the earth, in which case the sale shall be made on the fifteenth day calculating from the day following the day on which such crops or products may be stored as directed in Section 13, Regulation XVII. 1793; and thirdly, the time of the day when the sale is to be made, which shall be during the hours of business, when the greatest number of people may be supposed to assemble. The *cauzy* shall nominate two creditable persons, competent by their profession, trade, or occupation, to appraise the property. The persons so appointed, shall appraise the property according to the current price which the several articles may then bear in the country, and shall deliver the particulars of the appraisement in writing, and attest the same with their signatures, and shall certify in writing at the foot of the paper, that they have appraised the property according to the best of their knowledge and judgment. The *cauzy* shall affix his seal to the paper of appraisement, and cause it to be stuck up on the outer door of his own house, and at the place where the property is to be sold. The property shall be brought to the place of sale on the morning of the day of sale, in order that it may be examined by the persons intending to bid, unless it shall consist of grain or other products of the earth, the removal of which would be attended with considerable expence, in which case samples only, indiscriminately taken from each article, shall be brought to the place of sale, and exposed for the purpose above mentioned. The property shall be put up to sale in one lot, or in two or more lots, as the *cauzy* may think advisable. The property shall be disposed of for the highest price that may be offered for it. If the property shall sell for more than the amount of the arrear, the overplus, after deducting the charges attending the attachment and sale of it, shall be returned to the defaulter. If the proceeds of the sale shall be insufficient for the discharge of the arrear, and the expences attending the attachment and sale, the distrainer shall be at liberty to attach other property belonging to the defaulter, and to cause it to be sold to make good the deficiency. The *cauzy* is in every case to examine the distrainer's statement of the expences consequent to the attachment and sale of the property, and to reject any part of it that may appear to him unreasonable. If any person vested with the power of distraint, shall sell or dispose of property which he may have attached for arrears of rent or revenue, in any other mode than that prescribed in this section, he shall forfeit the arrear for which the distress may be levied to the defaulter, and make good to him the value of the property sold or disposed of, with all costs of suit.

Distrainer to apply to the *cauzy* of the *pergunnah* to sell the property.

Acts to be done by the *cauzy* on receipt of the application, viz.;

to publish at the places herein specified, a list of the property;

the place of sale;

the day of sale;

and the hour of the day when the sale is to be made;

to appoint appraisers to value the property;

to fix up the paper of appraisement at the places herein specified;

to cause the property, or samples of it, to be brought and exposed at the place of sale;

to put up the property to sale in one, or two, or more lots;

to dispose of the property to the highest bidder;

to return any overplus in the proceeds to the defaulter;

to sell further property for any deficiency;

and to examine and check the distrainer's statement of expences attending the attachment and sale.

Penalty for distrainers disposing of distrained property in any manner excepting that herein directed.

Section 26, Regulation XVII. 1793, rescinded.

VI. Section 26, Regulation XVII. 1793, regarding the payment of the purchase money of distrained property, is hereby rescinded, and the rule contained in the following section is enacted in lieu of it.

VII. The property shall be paid for in ready money at the time of the sale, and the purchaser shall not be permitted to carry away any part of the property which shall not have been paid for. Should the purchaser fail in the payment of the whole or part of the purchase money within five days, calculating from the day following the sale, the whole of the property, or the part of it which may be unpaid for, shall be resold by the *cauzy* on such day as he shall fix for the best price that may be offered for it. The defaulting purchaser shall forfeit to the distrainer ten per cent. on the amount of the price at which he shall have purchased the property so resold, and make good to him any loss that may arise, as well as the expences that may be incurred, on the resale. If any profit shall accrue on the resale, it shall be carried to the credit of the defaulter.

New rule regarding the payment of the purchase money for distrained property.

VIII. To facilitate the sale of distrained property, every person having a commission from the judge of the *zillah* to hear and determine civil suits not exceeding fifty rupees, under Regulation XL. 1793, is authorized and required to dispose of, under the rules prescribed to *cauzies* in Regulation XVII. 1793, and this regulation, any property that may be distrained in the *pergunnah* in which he may reside, and for the sale of which application may be made to him. The *cauzies* are likewise to continue to exercise the authority vested in them by Regulation XVII. 1793, and this regulation, and where a greater number of persons to be vested with this authority, shall be requisite in any *pergunnah* for facilitating the sale of property, the judge is empowered to appoint them. But no person vested with the power of disposing of distrained property, shall sell property that may have been distrained for arrears due to himself. Persons of this description, having occasion to levy arrears by distress, are to apply to some other person duly empowered for the sale of the property.

Native commissioners appointed under Regulation XL. 1793, empowered to sell distrained property.

IX. To enable proprietors of land, and farmers of land holding their farms immediately of Government, to recover more speedily arrears of rent or revenue, which, from the largeness of the amount, cannot be immediately realized by a levy of distress on the personal property of the defaulter, such proprietors or farmers, who may now have on account of the current or past Bengal, Fussily, or Willaity year, or who may hereafter have on account of the current or any future year of those eras, a demand on any of their dependant talookdars, under-farmers, or ryots, or their sureties, for an arrear of rent or revenue, exceeding five hundred sicca rupees, are empowered to proceed for the recovery of the amount in the manner hereafter specified.*

Rules for enabling proprietors and farmers of land to recover more expeditiously arrears exceeding five hundred rupees due on account of the past or current years, or that may hereafter become due.

X. The proprietor or farmer shall cause to be delivered to the defaulter, or to be stuck up at the outer door of his immediate or usual place of residence, a statement of the arrear claimed, with a notice subjoined to the statement, that if he shall fail to discharge the amount within three days, calculating from the day following the day on which the statement may be so delivered to him, or fixed up, he will be proceeded against, as authorized in the following sections.

Proprietor or farmer, to serve the defaulter with a written demand for the arrear.

XI. If the defaulter shall fail to discharge the demand by the time limited in the written notice, the proprietor or farmer is to present in person, or through an authorized vakeel of the court, a petition to the judge of the dewanny adawlut *to which the defaulter may be amenable, praying that he will cause the defaulter to be committed to close custody until he makes good the amount of the arrear claimed, with interest from the date of the delivery or fixing up of the notice as directed in the preceding section, to the date of the payment of it. The petition shall be accompanied by a copy of the statement of the demand, and of the written notice directed to be subjoined to it, without which the judge shall not receive the petition.*

Proprietor or farmer to apply by petition to the court to have the defaulter confined, if he omits to discharge the arrear.

Petition to be accompanied with a copy of the written demand, and the judge not to receive the former without the latter.

XII. First. *On receipt of the petition, and the statement with the subjoined notice, the judge is immediately to issue a summons to the person from whom the arrear may be claimed, requiring him to appear without delay, either in person or by an authorized vakeel of the court, and to deliver in an answer to the demand, with any papers or vouchers he may have to exhibit against the demand, the amount of which is invariably to be specified in the summons.*

Judge to summon the defaulter to appear in person or by vakeel.

Second. *In cases in which the judge shall have ground to apprehend, that the person from whom the arrear may be demanded, will abscond, he is empowered to require him to*

† Cases in which the judge may take security for the defaulter's delivering himself up to the court.

* From Section 9. to the end of the regulation, the whole is rescinded by Section 14, Regulation VII. 1799.

give personal security, for his appearing and delivering himself up into the custody of the court, in the event of his ordering him to be committed to confinement under the following section, and in default of his giving such security, the judge shall forthwith order him to be committed to custody.

Judges may proceed on applications for the confinement of defaulters, out of court, or when the court is adjourned.

Third. *The judges are empowered to proceed on applications for the confinement of defaulters as authorized in this regulation, out of court, or when the courts may be adjourned, notwithstanding any thing that may be said to the contrary in any regulation passed prior to this date.*

Judge on the appearance of the stated defaulter to enter into a summary enquiry into the demand,

XIII First. *On the appearance of the person from whom the arrear may be claimed, or his vakeel, the judge shall peruse his answer to the demand, and cause to be produced the engagements under which the arrear may be demanded, and the vouchers for the payments made under it, which the parties respectively are required to have ready to exhibit; and after a summary examination of them, and any enquiry which he may deem it necessary to make, if it shall appear to him that the amount demanded, or a sum exceeding five hundred sicca rupees, is due to the party claiming the arrear, he shall commit the defaulter to close custody until he discharges such arrear, or the sum so appearing to be due, with interest at the rate of twelve per cent. per annum, from the date on which the statement and notice was delivered to him or fixed up as directed in Section 10, to the date of payment, or the person claiming the arrear shall apply for his release, or until by a regular suit to be commenced in the* dewanny adawlut *under Section 19, the amount or sum for the discharge of which he may have been committed to custody on the above directed summary enquiry, shall be found, on a regular judicial investigation, not to be due from him.*

and to confine the defaulter if the amount claimed, or a sum exceeding five hundred sicca rupees, shall appear due from him

When defaulters so confined shall be entitled to their discharge.

Judge to proceed ex parte, in the event of the defaulter not appearing by the prescribed time.

Second. *If the person summoned under Section 12, shall not appear as required by the prescribed time, and shall not show satisfactory cause to the judge for not so appearing, the judge shall proceed upon the documents and vouchers of the party claiming the arrear, and make an order against the defaulter for the payment of the sum which may appear due from him on such examination, and cause him to be immediately committed to confinement.*

Entries to be made by the judges on the proceedings of the court, on their confining persons under Section 13.

XIV. When a judge shall commit a defaulter to confinement under the preceding section, he shall enter on his proceedings, the sum that may appear to him due from the defaulter, and a list of the papers and documents, on the inspection of which he may have grounded the order for his confinement.

Proprietors or farmers having suits depending in any of the sillah *or city courts, for arrears, may proceed for the recovery of them as above authorized.*

Judge how to proceed, if the arrear, or a sum not exceeding five hundred rupees, shall not appear to him due from the party summoned.

XV. Proprietors or farmers now having suits depending in any of the sillah *or city courts for arrears, being of the description of the arrears specified in Section 9, are declared to be at liberty to withdraw such suits, and to proceed against the person from whom they may claim the arrears, in the manner above authorized.*

XVI. On making the summary investigation directed in Section 13, if the judge shall be of opinion, that the arrear demanded, or a sum not exceeding five hundred sicca rupees is not due, he shall not confine the person from whom the arrear may be claimed, but shall leave the proprietor or farmer to institute a regular suit in the adawlut *for the amount of his demand; and if the person from whom the arrear may have been claimed, shall have appeared in person or by vakeel, the judge shall cause the claimant to the arrear to pay to him in the former case, such sum as may appear adequate to his trouble, or any loss that he may have incurred in consequence of his having been caused to attend in person, and in the latter, the charges of his vakeel, or any other expences he may have incurred on account of the process instituted against him.*

Proprietors and farmers may distrain the personal property of defaulters whom they may have caused to be confined.

Persons confined under section 13, may sue the party at whose instance they may have been confined.

Judgment to be given, if the demand be found groundless.

XVII. The confinement of a person under Section 13, shall not be considered to preclude the proprietor or farmer from distraining the personal property of the defaulter for the recovery of the arrear for which he may have been imprisoned, or for any other arrear.

XVIII Persons imprisoned under Section 13, who may deem the sum for the discharge of which the judge may have committed them to confinement on the summary investigation therein directed, not to be due from them, may institute a regular suit in the dewanny adawlut against the proprietor or farmer, at whose instance they may have been imprisoned, and should the amount be found upon trial not to be due from them, the court shall

award costs, and heavy damages according to the circumstances of the case, against the proprietor or farmer by whom the arrear may have been claimed.

Persons paying demands to avoid being summoned under Section 12, or sums declared due by the judge to avoid being confined under Section 13, may sue in the dewanny adawlut *for the recovery of what they may deem not to have been due from them.*

XIX. If any person from whom an arrear may be demanded by a proprietor or farmer under this regulation, shall consider the whole or any part of the demand to be unjust, but shall discharge the whole amount to avoid being summoned to appear before the judge under Section 12, or if any such person from whom a sum exceeding five hundred sicca rupees shall be declared to be due by the judge under Section 13, shall be of opinion that the whole or a part of such sum is not justly due from him, but to avoid being confined shall pay the whole amount, such person shall be at liberty to sue the proprietor or farmer in the dewanny adawlut *for the amount which he may have so paid, over and above what he may consider to have been due from him, and the court shall decree to him such sum as he may prove not to have been due from him, with interest, at the rate of twelve per cent. per annum, and such costs and damages as the court may deem equitable, on a consideration of the circumstances of the case.*

Preceding rules regarding the recovery of rents and revenues due to proprietors and farmers, applicable to managers of estates, and to collectors holding lands in attachment.

XX. The rules in the preceding sections, regarding the recovery of arrears of rent or revenue due to proprietors and farmers of land, are to be considered equally applicable to the managers of the estates of disqualified proprietors, and of joint undivided estates, and to collectors holding lands in attachment, for the purpose of adjusting the public assessment on them, or for any other purpose.

A. D. 1795. REGULATION XLV.

A REGULATION *for empowering Tulookdars, Zemindars, and all other Descriptions of Landholders, and Farmers of Land, in the Province of Benares, to distrain and sell the personal Property of Under-farmers, Ryots, and dependant Zemindars, and Putteedars, and (in certain specified cases) their Sureties, for Arrears of Rent or Revenue; and for preventing Landholders and Farmers of Land in the said Province, confining, or inflicting corporal Punishment on their Under-farmers, Ryots, and dependant Zemindars, and Putteedars, or their Sureties, to enforce Payment of such Arrears.*—PASSED *by the Governor General in Council, on the* 28*th August* 1795; *corresponding with the* 14*th Bhadoon* 1202 *Bengal era; the* 28*th Bhadoon* 1202 *Fussily; the* 14*th Bhadoon* 1202 *Willaity; the* 28*th Bhadoon* 1852 *Sumbut; and the* 12*th Suffer* 1210 *Higeree.*

Preamble.

THE regulations not defining the nature and extent of the coercion which landholders and farmers of land might legally exercise over their under-farmers, *ryots*, and dependant *zemindars*, and *putteedars*, to enforce payment of arrears of rent or revenue; many landholders and farmers, availing themselves of the sanction of former usage, had recourse to the most oppressive means for realising arrears, and frequently employed the same severities for the purposes of extortion; whilst others, doubtful what measures they were empowered to adopt to enforce payment from defaulters, and apprehensive of subjecting themselves to prosecution for oppression, refrained from all compulsion, and were often defrauded of arrears to which they were justly entitled. These defects in the regulations tending to screen oppression and dishonesty on the one hand, and to discourage moderation and good faith on the other; and it being as essential to the prosperity of the country, and the punctual collection of the public revenue, that landholders and farmers of land should have the means of compelling payment from defaulters, without being obliged to have recourse to the courts of justice, and incurring the delay and expence necessarily attending a law-process for the recovery of every arrear, as that under-farmers, *ryots*, and dependant *zemindars*, and *putteedars*, should be protected from oppression and unjust demands; the Governor General in Council, with a view to the attainment of these important objects, has passed the following rules.

What persons may distrain. Whose and what property is liable to distraint and sale.

II. *Tulookdars*, *zemindars*, and other actual proprietors of land, and farmers of land who hold their farms immediately of Government, are empowered to distrain, without sending notice to any court of justice, or any public officer, the crops and products of the earth of every description, the grain, cattle, and all other personal property, whether found in the house or on the premises of the defaulter, or in the house or on the premises of any other person, within or without the limits of the estate or farm of the distrainer, belonging to their under-renters, and *ryots*, and the dependant *zemindars*, and *putteedars*, paying revenue through them, for arrears of rent or revenue, and to cause the said property to be sold for the discharge of such arrears. The same powers are likewise vested in dependant *zemindars*, and *putteedars*, distinct or common, for the recovery of arrears of rent from their under-farmers, and *ryots*, and also in under-farmers who farm lands from *talookdars*, *zemindars*, *putteedars*, or other actual proprietors of land, or farmers of land, who hold their farms immediately of Government,

to enable such under-farmers to enforce payment of arrears of rent or revenue from their dependant *zemindars*, *putteedars*, or under-farmers, or *ryots*. The several descriptions of landholders and farmers of land above specified, are to exercise the powers hereby vested in them under the following rules and restrictions.

What property is not liable to distraint and sale.

III. Persons vested with the power of distraint, shall not distrain or sell the lands, houses, or other real property of their under-farmers, and *ryots*, or of the *zemindars* or *putteedars* paying revenue through them: nor goods or advances belonging to the Company; nor the loom, thread, unwrought silk, or materials of manufacture, of any weaver or manufacturer; nor the tools of any tradesman or labourer standing towards them in the relation of under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*. All such distraints and sales are declared illegal and void. The defaulter shall stand acquitted of the arrear for which the distress may be levied, and the property shall be restored to him, or the distrainer shall be compelled to make good to him the value of it, if it shall be personal property, and shall have been destroyed, damaged, or injured, or shall not be forthcoming, and the distrainer shall be further obliged to pay to him damages adequate to the loss which he may prove to have sustained in consequence of such attachment or sale, with all costs of suit.

Distraint and sale of it, illegal and void. Penalty.

What property is not to be distrained, if other sufficient property can be attached.

IV. The ploughs and implements of husbandry, the cattle actually trained to the plough, and the seed grain of under-farmers, *ryots*, and dependant *zemindars*, or *putteedars*, shall not be distrained for arrears, provided the defaulter shall possess, and the distrainer shall have it in his power to attach, other cattle, grain, or property, sufficient for the discharge of the arrear. Distrainers are enjoined to attend strictly to this rule, and every deviation from it shall be punished by an award to the party aggrieved of damages adequate to the injury he may have sustained, with all costs of suit.

Penalty.

When *under-farmers, &c. are to be considered to have defaulted.*

Sureties not exonerated by the distraint of the property of defaulters.

V*. *Under-farmers*, ryots, *and dependant* zemindars, *and* putteedars, *shall not be considered to have defaulted, until the arrears have been ineffectually demanded from them, and also from their surety, if they shall have given security, and the surety shall be forthcoming*; and when, as the last resource, an attachment shall be issued against the property of a defaulter, the responsibility of the surety shall not be thereby in any degree diminished.

Penalty for attaching property if no arrear be due.

VI. If any person vested with the power of distraint, shall attach, or cause to be sold, the property of any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, for arrears of rent or revenue, and it shall appear upon trial that no arrear was due, the distrainer shall be compelled to restore the property to the owner, or to make good to him the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay to him as damages a sum adequate to the value of such property, and all costs of suit.

Attachment not to take place, if the defaulter shall tender the arrears upon demand.

VII. If the defaulter, in the presence of two creditable witnesses, shall tender the arrears demanded of him, to the person deputed to attach his property, such person shall receive the arrears, and shall not proceed to the attachment.

Distrainers to furnish the person they may depute to distrain, with a writing, specifying the amount of the arrear, and the date on which it became due.

Copy of the writing, with list of the property distrained, name of the place where it is lodged, and notice that it will be sold, endorsed thereon, to be delivered to the defaulter, or left at his place of residence, in case of his absence.

VIII. Distrainers shall deliver to the person whom they may depute to attach the property of a defaulter, a writing under their signature, specifying the amount of the arrear for which the attachment may be issued, and the date on which such arrear became due. The person so deputed shall produce this writing as his authority for making the attachment, and on the day on which he may attach the property, shall deliver a copy of it to the stated defaulter, endorsing thereon a list or inventory of the property attached, and the name of the place where it may be lodged or kept, †*with a notice that it will be sold on the fifteenth day commencing from the day following the day on which the attachment took place, or, if the property attached shall consist of crops or other ungathered products of the earth, within fifteen days calculating from the day following the day on which such crops or products may be stored as directed in Section* 11, *unless the arrears and expences of the attachment shall be previously discharged.* . If the defaulter shall be absent, a copy of the above writing, with the prescribed endorsement, shall be fixed up or left at his usual place of residence, before the expiration of the third day, calculating from the day of the attachment. If any person vested with the power of distraint, shall cause property to be

Penalty.

* The words in Italic type are rescinded by Section 3, Regulation V. 1800.
† The words in Italic type are rescinded by Section 4, Regulation V. 1800.

attached,

attached, without furnishing the agent whom he may employ for that purpose with the writing above directed, or if such agent shall be furnished with the writing prescribed, and shall omit to deliver a copy of it, with the required endorsement to the defaulter, or in the event of his absence, to leave such copy at his usual place of residence within the period limited, the distrainer shall not be entitled to recover the arrear for which the distress may have been levied, and he shall be compelled to restore the property to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay all costs of suit.

Attachment to be withdrawn, if the defaulter shall tender the arrear, and expences of attachment, previous to the day of sale.

IX. If the defaulter shall tender payment of the arrear demanded of him in the presence of two creditable witnesses, after his property shall have been attached, and prior to the day fixed for its being put up to sale, and also of the necessary expences attending the attachment, the distrainer shall receive the amount of such arrear and expences immediately upon the same being tendered, and shall forthwith release the property. In case of any dispute arising respecting the expences of the attachment, it shall be determined by the *cauzy* of the *pergunnah* in which the distress may have been levied. The courts of *dewanny adawlut*, upon complaint made to them, are to punish any distrainer who may act contrary to this regulation, by awarding against him in favour of the party injured, damages according to the circumstances of the case, with all costs of suit.

Penalty.

Property distrained not to be taken out of the *pergunnah*.

Where to be kept.

X. Distrainers shall not drive or convey distrained cattle or other property out of the limits of the *pergunnah* in which it may have been attached. The distrainer shall either leave the property upon the premises in the charge of any person he may think proper, or drive or convey it with due care to a proper place as near as possible to the premises within the limits of the *pergunnah*.

Distrained crops and ungathered products of the earth, when to be reaped, or gathered, and where to be stored.

XI. Distrainers who shall attach the crops or any ungathered products of the earth belonging to their under-farmers, *ryots*, or the *zemindars*, or *putteedars*, paying revenue through them, shall cause such crops or products to be reaped or gathered in due season, and store the same in proper houses, barns, or granaries, upon the premises, or, if there shall be no such places on the premises, in any barn or proper place which can be procured as near thereto as possible within the limits of the *pergunnah*. The expence of reaping, or gathering, and storing such crops or products, shall be paid by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Distrained cattle not to be worked, nor goods or effects used. Distrainers to provide food for cattle or live stock.

Expence how to be defrayed.

Penalty for distrainers neglecting to take due care of the property distrained.

XII. Distrainers shall not work the bullocks or cattle, or make use of the goods or effects distrained. They shall provide the necessary food for the cattle or live stock, the expence attending which shall be paid by the owner upon his redeeming the property, or from the proceeds of the sale, in the event of its being sold.

XIII. If property distrained shall be stolen, or lost, or be damaged, injured, or destroyed, by the weather or otherwise, whilst in the possession of the distrainer, owing to his not having taken the necessary precautions for the due keeping and preservation of it, he shall make good the loss or damage to the owner.

Distress to be proportionate to the arrear.

Penalty for excessive distress.

XIV. The distress levied shall not be excessive, or in other words, the property seized shall be as nearly as possible proportionate to the amount of the arrear. If any person vested with the power of distraint shall attach any property the value of which shall be disproportionate to the arrear, and it shall be proved that he could have seized other property, of less value, and which would have been sufficient for the liquidation of such arrear, the court of *dewanny adawlut* shall award to the owner damages according to the circumstances of the case, with all costs of suit.

Attachment to be made between sun-rise and sun-set.

Penalty for attaching property after sun-set, and before sun-rise.

XV. All attachments shall be made after sun-rise, and before sun-set. If any person vested with the power of distraint, shall seize, or attempt to seize, the property of any defaulter after sun-set and before sun-rise, for the discharge of arrears of rent or revenue, such distrainer shall not be entitled to recover the arrear, and, if the property shall have been attached, shall be compelled to restore it to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, with all costs of suit.

Transfer of a defaulter's property to prevent distraint, invalid.

XVI. If any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, shall make a fraudulent conveyance or transfer of his property to prevent the attachment of it for arrears, the court of *dewanny adawlut*, upon proof thereof being made before it, shall cause the

Penalty for persons to whom such transfers may be made.

property to be delivered up to the distrainer, and compel the person to whom such transfer or conveyance shall have been made, to pay to the distrainer damages adequate to the value of one half of the property, with costs of suit.

Punishment for under-farmers, &c. resisting an attachment, or forcibly or clandestinely taking away their property after it has been attached.

XVII. If any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, shall resist the attachment of his property, or shall forcibly or clandestinely take it away after it shall have been attached, the court of *dewanny adawlut* shall cause him, and all persons who may be proved to have been his aiders or abettors, to be imprisoned in the jail until he shall restore the property to the distrainer, or the arrear shall have been liquidated by the distraint and sale of other property, or otherwise discharged, with the expences attending the attachment, and costs of suit.

Punishment for persons not being the owners, forcibly or clandestinely taking away property which has been attached.

XVIII. If any person not being the owner, shall be convicted of forcibly or clandestinely taking away property that has been distrained, the court of *dewanny adawlut*, upon proof thereof being made before it, shall cause such person or persons to be imprisoned until they restore the property, or make good the value of it to the distrainer, and pay to him as damages a sum equal to the value of such property, and all costs of suit.

What places distrainers may force open to attach the property of defaulters.

XIX. Distrainers are empowered to force open any stable, cow-house, barn, *golah*, granary, or other building, and to enter any dwelling-house, the outer-door of which may be open, (excepting the apartments in such dwelling-house which may be appropriated for the *zenana* or residence of women,) and to break open the door of any room in such dwelling-house, for the purpose of attaching any property belonging to a defaulter which may be lodged therein. But nothing contained in this regulation, shall be construed to authorize persons vested with the power of distraint, or their servants, or agents, to enter the *zenana* or apartments of women, whether the doors or passages leading thereto be open or not; nor to force open and enter any dwelling-house the outer door of which may be locked or barred.

Zenana or women's apartments not to be entered, whether the doors be open or shut.

Dwelling houses not to be forced open.

Punishment for entering women's apartments, or forcing open dwelling-houses.

Persons entering the apartments of women, or forcing open the outer door of any dwelling-house, shall be imprisoned for six months, the distrainer shall not recover the arrear for which the attachment may have been issued, and he shall be compelled to restore to the defaulter any property that may have been attached, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and the court shall further award against such distrainer heavy damages, with all costs of suit. And if any person shall enter a dwelling-house, or break open any stable, cow-house, barn, *golah*, granary, or other building, not occupied by, or in the possession of, the defaulter, to distrain property belonging to him, and no such property shall be found therein, the distrainer shall be liable to prosecution by the occupant or possessor, for entering such house, or breaking open such stable, or other building, and the court shall award to him damages according to the circumstances of the case, with all costs of suit.

Penalty for entering any dwelling-house, or breaking open any place not occupied by, or in the possession of the defaulter, should no property belonging to him be found therein.

Rules regarding the sale of distrained property.

XX. After the expiration of the fifth day, and before the elapse of the eighth day, calculating from the day following the day on which the attachment of the property of a defaulter shall have taken place, or, if the property attached shall consist of crops, or other ungathered products of the earth, after the elapse of the fifth day, and before the expiration of the eighth day, commencing from the day following the day on which such crops or products may have been stored as directed in Section 11, the distrainer shall apply to the *cauzy* of the *pergunnah* to have the same appraised and sold. Upon the receipt of such application, the *cauzy* shall proceed as follows. He shall fix up on the outer door of his own house, and at the place at which he may determine to dispose of the property, a list of the property attached, with a notice, which shall specify, First, the place at which the property is to be sold, which shall be on the spot where it may be lodged by the distrainer, or at the nearest *gunje*, *bazar*, or *haut*, or any place of public resort where the *cauzy* may be of opinion it is likely to sell to the best advantage; Secondly, the day on which it is to be sold, **which shall be the fifteenth day, commencing from the day following the day on which the attachment may take place, unless the property shall consist of crops or other ungathered products of the earth, in which case, the sale shall be made on the fifteenth day, calculating from the day following the day on which such crops or products may be stored as directed in Section 11*: and Thirdly, the time of the day when the sale is to be made, which shall be during the hours of business

Distrainer to apply to the *cauzy* of the *pergunnah* to sell the property.

Acts to be done by the *cauzy* on receipt of the application, viz. to publish at the places herein specified, a list of the property;

the place of sale;

the day of sale;

and the hour of day when the sale is to be made;

* The part of this section in Italic type is rescinded by Section 4, Regulation V. 1809.

when the greatest number of people may be supposed to assemble. The *cauzy* shall nominate two creditable persons, competent by their profession, trade, or occupation, to appraise the property. The persons so appointed, shall appraise the property according to the current price which the several articles may then bear in the country, and shall deliver the particulars of the appraisement in writing, and attest the same with their signatures, and shall certify in writing at the foot of the paper, that they have appraised the property according to the best of their knowledge and judgment. The *cauzy* shall affix his seal to the paper of appraisement, and cause it to be stuck up on the outer door of his own house, and at the place where the property is to be sold. The property shall be brought to the place of sale on the morning of the day of sale, in order that it may be examined by the persons intending to bid, unless it shall consist of grain or other products of the earth, the removal of which would be attended with considerable expence, in which case, samples only, indiscriminately taken from each article, shall be brought to the place of sale, and exposed for the purpose above mentioned. The property shall be put up to sale in one lot, or in two or more lots, as the *cauzy* may think advisable. The property shall be disposed of for the highest price that may be offered for it. If the property shall sell for more than the amount of the arrear, the overplus, after deducting the charges attending the attachment and sale of it, shall be returned to the defaulter. If the proceeds of the sale shall be insufficient for the discharge of the arrear, and the expences attending the attachment and sale, the distrainer shall be at liberty to attach other property belonging to the defaulter, and to cause it to be sold to make good the deficiency. The *cauzy* is in every case to examine the defaulter's statement of the expences consequent to the attachment and sale of the property, and to reject any part of it that may appear to him unreasonable. If any person vested with the power of distraint, shall sell or dispose of property which he may have attached for arrears of rent or revenue, in any other mode than that prescribed in this section, he shall forfeit the arrear for which the distress may be levied to the defaulter, and make good to him the value of the property sold or disposed of, with all costs of suit.

to appoint appraisers to value the property;

to fix up the paper of appraisement at the places herein specified;

to cause the property or samples of it to be brought and exposed at the place of sale;

to put up the property to sale in one, or two, or more lots;

to dispose of the property to the highest bidder;

to return any overplus in the proceeds to the defaulter;

to sell further property for any deficiency;

and to examine and check the distrainer's statement of expences attending the attachment and sale.

Penalty for distrainers disposing of distrained property in any manner excepting that herein directed.

XXI. The *cauzy* is to be careful to prevent any unfair practices either in the appraisement, or sale of property. Upon proof being made before the court of *dewanny adawlut* of the city or *zillah*, of his conniving at any such practices, the court shall cause him to make good any loss or injury that the defaulter may have thereby sustained, with costs of suit, and shall immediately report the circumstances of the case to the Sudder Dewanny Adawlut for the information of the Governor General in Council, who, provided there shall appear to him sufficient reason for so doing, shall dismiss such *cauzy* from his office.

Punishment for *cauzies* conniving at unfair practices, in the appraisement or sale of property.

XXII. The distrainer, the *cauzy*, and the appraisers, are prohibited purchasing, directly or indirectly, any part of the property. Any *cauzy* or appraiser offending against this prohibition, shall be compelled to restore the property to the defaulter, or the full value of it, in the event of its being injured, damaged, destroyed, or not forthcoming, and shall forfeit the purchase money, which shall be appropriated to the liquidation of the arrear, and pay all costs of suit; and the court shall report the circumstances to the Sudder Dewanny Adawlut for the information of the Governor General in Council, who, if there shall appear to him sufficient ground for so doing, shall dismiss such *cauzy* from his office. Distrainers acting contrary to the prohibition contained in this section, shall be compelled to restore the property to the defaulter, or the full value of it, if it shall have been injured, damaged, or destroyed, or shall not be forthcoming, and shall likewise forfeit to him the arrear for which the property may have been attached, and pay all costs of suit.

Distrainer, *cauzy*, and appraisers, not to purchase the property.

Penalty.

XXIII. Neither the defaulter, nor any person on his behalf, shall be permitted to bid for or purchase the property.

Defaulters not to bid for or purchase their property.

XXIV. The property shall be paid for in ready money at the time of sale, and the purchaser shall not be permitted to carry away any part of the property which shall not have been paid for. Should the purchaser fail in the payment of the whole or part of the purchase money within five days, calculating from the day following the sale, the whole of the property, or the part of it which may be unpaid for, shall be resold by the *cauzy* on such day as he shall fix, for the best price that may be offered for it. The first purchaser shall forfeit to the distrainer, ten per cent. on the amount of the price at which he shall have purchased the property so resold, and make good to him any loss that may arise, as well as the

Rule regarding the payment of the purchase money for distrained property.

expences that may be incurred on the resale. If any profit shall accrue on the resale, it shall be carried to the credit of the defaulter.

Persons who under the names of sureties, farm or tenant lands in the names of others, to be considered the actual *ryots*, or farmers of such land.

XXV. Persons who tenant or under-farm lands in the name of their children, dependants, or others, or in the names of fictitious persons, and give themselves as the ostensible sureties for the performance of the agreement, but retain the actual management of the lands, and in fact are themselves the under-farmers, or *ryots*, of such lands, shall to all intents and purposes be considered as the under-farmers, or *ryots*, of such lands, and their property shall be liable to be distrained and sold for arrears under this regulation, in the same manner as if the engagement for the lands had stood in their own names.

Landholders and farmers prohibited confining or inflicting corporal punishment on defaulters, or their sureties.

XXVI. Landholders, and farmers of land, are prohibited confining or inflicting corporal punishment, on any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, or their sureties, to enforce payment of arrears of rent or revenue. If any landholder or farmer of land, shall offend against this prohibition, the person so punished or confined, shall be at liberty either to prosecute the offender for assault or imprisonment in the criminal court, or to institute a suit against him in the *dewanny adawlut* of the jurisdiction, which court shall award damages against such offender according to the circumstances of the case, with costs of suit.

What persons are to perform the duties assigned to the *cauzy*, in the event of his absence, or of there being no such officer stationed in the *pergunnah*.

XXVII. *First.* In the event of the absence of the *cauzy*, or of there being no such officer stationed in the *pergunnah*, the *aumil* or *tehsildar*, or in case of his absence, or of there being no such officer in the *pergunnah*, such person as the judge of the *dewanny adawlut* of the jurisdiction shall think proper to vest with authority for that purpose, may and shall respectively do all such acts as the *cauzy* is authorized or directed to perform by this regulation, and under the like restrictions and penalties, as far as the latter can be inflicted.

Native commissioners appointed under Regulations XL. 1793, and XXXI. 1795, are empowered to sell distrained property.

Second. To facilitate further the sale of distrained property, every person having a commission from the judge of the jurisdiction to hear and determine civil suits not exceeding fifty rupees, under Regulations XL. 1793, and XXXI. 1795, is authorized and required to dispose of under the rules prescribed to *cauzies* in this regulation, any property that may be distrained in the *pergunnah* in which he may reside, and for the sale of which application may be made to him; and where the number of persons vested with this authority in any *pergunnah* or district, shall be found insufficient, the judge is empowered to appoint such number as may appear to him requisite. But no person vested with the power of disposing of distrained property under this regulation, shall sell property that may have been distrained for arrears due to himself. Persons of this description, having occasion to levy arrears by distress, are to apply to some other person duly empowered for the sale of the property.

Heirs and successors of landholders and farmers, to distrain for arrears due to the deceased, if entitled thereto.

Managers of undivided estates vested with the power of distraint.

XXVIII. Upon the death of any person vested with the power of distraint by this regulation, his heirs or successors, who may be entitled to the arrears due to him, shall be at liberty to distrain the property of the defaulters, and their sureties, in the cases authorized for the recovery of the same agreeably to this regulation. It is to be understood likewise, that managers of undivided estates belonging to two or more proprietors, are authorized to exercise the same powers for the recovery of arrears of rent or revenue, as the proprietors of the estates committed to their charge would be entitled to exercise under this regulation, were they entrusted with the management of their own estates, subject however to the same rules, restrictions, and penalties.

Principals responsible for the acts of agents.

XXIX. If any *gomashtah*, agent, servant, or officer, of any person vested with the power of distraint, shall attach or cause to be sold the property of any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, or their sureties, or do any act in the attachment or sale of it contrary to this regulation, the party aggrieved shall have his remedy against the principal of the offender for such illegal attachment, sale, or act, whether the same took place or was done by the orders, or with the knowledge of such principal or not. Nothing however contained in this section, shall subject a distrainer to imprisonment, in the event of any person deputed by him to attach property, entering the *zenana* or apartments of women, or breaking open a dwelling-house in opposition to the prohibition contained in Section 19, unless it shall be proved that such acts were done by the order, or with the consent or knowledge of such distrainer.

Exception.

XXX. Nothing contained in this regulation shall be construed to prohibit persons entitled under this regulation to distrain, from attaching the standing crops of the under *ryots* who cultivate on the *betay* tenure, and appropriating the moiety in value or kind, or such other proportion thereof as they shall be entitled to, under the rules contained in Regulation II. 1795, leaving to such *ryots* who shall deem themselves aggrieved by any act of the landholder or superior renter exercising this right, his remedy by application to the *adawlut*.

Rule in respect to the attachment and division of *betay* crops.

XXXI. Nothing contained in this regulation shall be construed to prohibit any persons whose property may have been distrained or sold, from instituting a suit in the court of *dewanny adawlut* of the jurisdiction, against the distrainer, for any injury which they may think they have thereby sustained. Nor to prevent the several descriptions of landholders, or farmers of land, or other persons vested with the power of distraint, from prosecuting in the court of *dewanny adawlut* of the jurisdiction, for arrears due to them from any underfarmer, *ryot*, or dependant *zemindar*, or *putteedar*, or their sureties, should they prefer the lastmentioned mode of procedure to distraining and selling the personal property of the defaulter, or, in the cases authorized, of his surety, for the recovery of the arrears under this regulation.

Persons deeming themselves injured by the distraint and sale of their property, may seek redress in the *dewanny adawlut*.

Persons vested with the powers of distraint, to have the option of prosecuting in the *dewanny adawlut* for arrears.

XXXII. All suits that may be instituted under this regulation, are to be heard and determined previous to any other suits which may be depending.

Suits instituted under this regulation, to be tried in preference to all other suits.

A. D. 1796. REGULATION V*

A REGULATION *for explaining certain Parts of the existing Regulations relative to public Sales of Land in the Provinces of Bengal, Behar, and Orissa.*—PASSED *by the Governor General in Council, on the* 20*th May* 1796; *corresponding with the* 10*th Jeyte* 1203 *Bengal era; the* 28*th Bysaak* 1203 *Fussily; the* 10*th Jeyte* 1203 *Willaity; the* 28*th Bysaak* 1853 *Sumbut; and the* 11*th Zekaad* 1210 *Higeree.*

Preamble.

REGULATIONS *XIV.* 1793, *and III.* 1794, *prescribe the process to be observed in the sale of land for the recovery of arrears of the public revenue; and Regulation XLV.* 1794, *contains rules for the disposal of lands by public sale in satisfaction of decrees of the courts of justice. No provision, however, being made in these regulations for cases in which the amount bid for the lands put up to sale may exceed the amount to be recovered by the sale, a doubt has arisen, whether, in such cases, the whole of the lands put up are to be disposed of; or a proportion only, equal to the amount due. With a view, therefore, to remove all doubt on this head, and at the same time to obviate the ill consequences to be apprehended from any uncertainty or difficulty in the public sales of land, the following explanatory rule has been enacted by the Governor General in Council.*

Lands put up to sale to be proportionate to amount recoverable.

II. In all cases wherein a sale of lands may be necessary for the recovery of arrears of the public revenue, or in satisfaction of a decree passed by any court of judicature, or in any other case wherein a public sale of lands may be authorized by the existing or future regulations of Government; the collector, or other officer to whom the sale may be committed, is to be careful to select for the sale, such lands as from the current value of similar lands, considered with all the information he may possess respecting those to be sold, may appear likely to sell for the amount to be recovered by the sale, and no more.

Lands to be sold in distinct lots, if consisting of several separately assessed,

Or, though not separately assessed, if of considerable extent, and easily divisible.

III. In all cases of public sales, the lands disposed of, if consisting of distinct mohauls, separately assessed for the public revenue, are to be sold in distinct lots according thereto; or though not separately assessed, if the lands to be disposed of be of considerable extent, and so situated that they can without much delay or difficulty be divided into distinct lots, they are to be so divided and sold accordingly; due regard being had in selecting and assessing the lands so allotted, to the rules laid down in Section 10, *Regulation I.* 1793, *and Section* 8, *Regulation XXV.* 1793, *as far as the same may be applicable. Provided, nevertheless, that nothing in this regulation shall be understood to require the division of an estate, in instances wherein the proprietor may, by a written application, desire to have the whole sold in one lot, or wherein from local circumstances it may appear more for the advantage of the proprietor, that the whole be sold in one lot.*

Proviso.

To what extent the sale is to be made, when the lands consist of several lots.

IV. In cases when the lands to be disposed of shall have been divided as above, into separate lots, if the amount bid for the first lot put up, or for any number of lots less than the whole, be sufficient to make good the sum due, with the costs of sale, the remaining lots are not to be disposed of. But if the amount bid for any lot shall exceed the sum due and costs of sale, the entire lot shall notwithstanding be disposed of, and the excess

* The whole of this regulation is rescinded by clause first, Section 2, Regulation XI. 1822.

above the sum due and costs, (unless otherwise directed,) be paid to the proprietor of the lands, who by this means will receive the full value of his property; whereas were the sale to be restricted to a portion of the lot, the purchaser, from the delay and difficulties of a division, would probably be deterred from offering so advantageous a price.

Or. if one lot only.

V. For the reason above stated, in all cases of lands being put up to public sale in one lot, the whole are to be disposed of, whether the amount bid for them be more or less than the sum due; and in the event of an overplus, it is to be paid to the proprietor of the lands, after deducting the costs of sale; unless by any special order it may be otherwise directed.

A. D. 1796. REGULATION XII.*

A REGULATION *for increasing the Deposit on the Purchase of Lands at public Sale, from five to fifteen per cent. in the Provinces of Bengal, Behar, Orissa, and Benares.*—PASSED *by the Governor General in Council, on the 16th December* 1796; *corresponding with the 4th Poose* 1203 *Bengal era; the 2d Poose* 1204 *Fussily; the 4th Poose* 1204 *Willaity; the 2d Poose* 1853 *Sumbut; and the 15th Jummaud us Sanee* 1211 *Higeree.*

Preamble.

TO ensure the due discharge of the purchase-money of lands disposed of at public sales, it is directed by Section 27, Regulation XIV. and Section 13, Regulation XLV. 1793, and Section 33, Regulation VI. and Section 13, Regulation XX. 1795, that a deposit of five per cent. on the amount of the purchase-money shall be made at the time of the sale by every purchaser of land that may be disposed of at public sale; and it is declared that the deposit shall be forfeited, and that the lands shall be liable to a resale, in the event of the purchase money not being discharged within the stipulated period. The forfeiture, however, of this deposit has been found insufficient to prevent fictitious purchases, many instances having occurred in which individuals, with a view to protract the sale of their property, or for other purposes, have employed persons to purchase the lands in their own or in fictitious names, and afterwards caused the persons so employed to abscond before the arrival of the period for the payment of the purchase-money, leaving the deposit made on the day of sale to be forfeited, and the party on whose account the sale was ordered, to have recourse to a resale. These fictitious purchases having occasioned considerable loss to Government, or the party on whose account the sale has been ordered to be made, by protracting the realising of the demands for which the property has been directed to be disposed of, and being attended with other evils and inconveniencies; and as it is conceived that this and other abuses practised at sales, may be prevented by requiring a larger proportion of the purchase-money to be deposited at the time of sale, without at the same time depreciating the property; the following rules have been enacted

A deposit of 15, instead of 5, per cent. to be made by purchasers of land at public sale.

II. Instead of the deposit of five per cent. on the amount of the purchase-money required to be made by every purchaser of land which may be disposed of at public sale, by Section 27, Regulation XIV. and Section 13, Regulation XLV. 1793, and Section 33, Regulation VI. and Section 13, Regulation XX. 1795, a deposit of fifteen per cent. on such amount shall be made on all public sales of land which may be ordered to take place after this date, and the deposit so made shall be subject to forfeiture under the rules contained in the said regulations, in case of the purchase-money not being discharged by the stipulated period.

A. D. 1799. REGULATION VII.

A REGULATION *for enabling Proprietors and Farmers of Land to realize their Rents with greater Punctuality; for providing against unnecessary Delay in the Payment of the public Revenue assessed upon the Lands; and for securing the ultimate Recovery of Arrears of Revenue by a Sale of the landed Property from which it may be due at the Close of the Year.*—PASSED *by the Vice-President in Council, on the* 29*th August* 1799; *corresponding with the* 5*th Bhadoon* 1206 *Bengal era; the* 14*th Bhadoon* 1206 *Fusily; the* 15*th Bhadoon* 1206 *Willaity; the* 14*th Bhadoon* 1856 *Sumbut; and the* 26*th Rubbee-ul-Awaul* 1214 *Higeree.*

Preamble.

THE powers which the landholders and farmers of land paying revenue to Government, are at present allowed to exercise for enforcing payment of the rents due to them from their under-tenants, having in some cases been found insufficient, particularly where the crop not being in the immediate possession of the under-tenant in arrear cannot be distrained and sold, under the provisions contained in Regulations XVII. 1793, and XXXV. 1795. A considerable delay having also of late occurred in the payment of the public revenue due from many of the landholders, which though ascribable in some instances to the cause above mentioned, can, in others, be imputed only to a want of good faith on the part of certain of the *zemindars* and other landholders, who taking advantage of the delay with which the process for disposing of their lands is unavoidably attended, have withheld payment of their instalments until the day appointed for the sale, and in many instances, there is reason to believe, have bought in their lands, when sold, in fictitious names or the names of irresponsible dependents. Moreover, the frequent and successive sales of land, within the current year, having been found productive of material ill consequences, as well towards the land proprietors and under-tenants, as in their effect on the public interest in the fixed assessment of the land revenue. The Vice-President in Council, with a view to obviate the above injurious consequences hereafter, and to establish a more certain and easy process for enabling landholders and farmers of lands to realize their rents, and the officers of Government to enforce payment of the public revenue without having recourse to sales of land till the close of the year, has enacted the following rules and provisions, to be in force throughout the provinces of Bengal, Behar, and Orissa, from the promulgation of this regulation in the several districts respectively.

Landholders and farmers empowered by Section 2. of Regulation XVII. 1793, to distrain for arrears of rent, authorised to delegate this power to their agents.

Agents to whom such power may be delegated, authorised to levy distress for arrears of rent due to their constituents.

II. The *zemindars*, *talookdars*, and other landholders and farmers of land, empowered by Section 2, of Regulation XVII. 1793, to distrain the crops, cattle, and other personal property of their under-tenants for arrears of rent, are authorized to delegate to their *naibs*, *gomashtahs*, and other agents, employed in the collection of their rents, the power of distraining in their behalf in the mode prescribed by the regulations, under the responsibility declared in Section 32. of Regulation XVII. 1793; and the *naibs*, *gumashtahs*, and other agents, to whom such power may be delegated by their principals, are authorized to proceed for the recovery of arrears of rent due to their constituents in the same manner as the latter are authorised to proceed, subject to their own responsibility in addition to that of

Subject to their own responsibility in addition to that of their principals.

Neither landholders, farmers, or their agents, liable to prescribed penalties, except in cases of wilful deviation from, or gross neglect of, the regular process for distraining.

Where no wilful deviation or gross neglect may appear, satisfaction for actual damage only to be adjudged.

And not this, if distrainer can shew that he tendered sufficient amends.

Part of Section 5, Regulation XVII. 1793, rescinded.

their principals, for any wilful deviation from the regulations: but it is hereby declared, that neither the landholders and farmers themselves, or their agents, are to be made liable to the penalties prescribed for a deviation from any part of Regulation XVII. 1793, or of Regulation XXXV. 1795, or of any other regulation relative to the distraining for land-rents, unless such deviation shall clearly appear to have been wilful and intentional, or to have proceeded from gross neglect and inattention to the rules prescribed for their guidance. Where no such wilful deviation or gross neglect shall appear, satisfaction to the party aggrieved for the actual damage sustained by him, from the prescribed process not having been strictly adhered to, shall alone be adjudged against the distrainer; nor shall any judgment be given for such damages, if the distrainer can shew that he tendered sufficient amends to the party injured as soon as the irregularity in his proceedings was discovered, or at any time before the action for damages was brought against him, and that such tender was refused.

Under-tenants to be considered defaulters for any arrears of rent withheld beyond the day on which they become payable.

For such arrears not paid on demand, defaulters liable to distress.

Tenant to give notice of distress to his surety.

Or distrainer may give notice to the surety, and require payment from him.

Distrainer may also at his option distrain property of surety.

Or the property of both the defaulter and his surety; so that the distress be not excessive.

Provided the arrear be first demanded from the defaulter, if forthcoming.

III. Such part of Section 5, Regulation XVII. 1793, as enacts that "under-farmers, *ryots*, and dependant *talookdars*, shall not be considered to have defaulted until the arrears have been ineffectually demanded from them, and also from their surety if they shall have given security and the surety shall be forthcoming," is hereby rescinded; and under-tenants of every description are to be considered defaulters, for any arrears of rent withheld beyond the day on which the same may have become payable according to their *kisthundies*, or other engagements, or where there may be no written specification of the exact term of payment, beyond the period when the rent demandable from them may be payable according to established local usage. For all such arrears which may not be paid on demand, defaulters are declared liable to immediate distress, whether the amount shall have been demanded from their sureties or otherwise. In instances wherein the distrainer may proceed to levy distress from an under-tenant, who has given security, without having previously demanded the arrear from the surety, it will be incumbent on the tenant to give notice of the distress to his own surety, so as to enable him to discharge the arrear before the sale of the property attached; or the distrainer, if he think proper, may give notice to the surety, and require him to make payment of the arrear. The distrainer may also, at his option, distrain in the prescribed mode either the property of the defaulter or his surety, or the property of both, so that the whole distress be not excessive in proportion to the arrear; but no distress shall be levied on the property of the surety, until the arrear shall have been ineffectually demanded from the defaulter; unless the latter shall have absconded, or be otherwise not forthcoming; in which case, and in the event of the surety's not discharging the amount due on demand, distress may be levied from his property for the recovery of it, in like manner as if the defaulter had been present and served with the demand in the first instance.

Notice of fifteen days directed in Section 5, of Regulation XVII. 1793, and period of fifteen days fixed by Section 5, of Regulation XXXV. 1795, for sale of attached property rescinded.

Notice of fifteen days directed in Section 5, of Regulation XVII. 1793, and period of fifteen days fixed by Section 5, of Regulation XXXV. 1795, for sale of attached property rescinded.

Future notice to be given to defaulters.

IV. The notice of fifteen days for the sale of attached property directed in Section 5, of Regulation XVII. 1793, and the period of fifteen days from the time of attachment fixed for the sale of such property by Section 5, of Regulation XXXV. 1795, are hereby rescinded: and the notice to the defaulter, directed to accompany the inventory of the attached property to be delivered to him, shall inform him only of the arrear due and the intention of the distrainer to bring the attached property to immediate public sale for the discharge of it, unless the amount and expences of attachment be previously paid. If the defaulter on receiving this notice shall neglect to pay the amount due from him, or to give such assurance of early payment as may be satisfactory to the distrainer; or if the defaulter shall have absconded or be otherwise absent, so that the notice cannot be served on him; the distrainer is to transmit an inventory of such part of the attached property as can be brought to immediate sale, to the nearest *cauzy* or other public officer empowered to sell distrained property, with a written request that he will cause the same to be publicly sold for the discharge of the arrear due, the amount of which is also to be specified in the application, together with the place where the property may be in attachment; and if it be the intention of the distrainer to remove it, under the discretion vested in him by Section 12. of Regulation XVII. 1793, the place to which such removal is intended. The *cauzy* or other authorized officer, on the receipt of such application, is to proceed as directed in Section 5. of Regulation XXXV. 1795, under the following further provisions, viz. instead of fixing the day of the sale on the fifteenth day after the attachment, he shall fix as early a day for the sale as may be compatible with a due observance of the other directions in the above section for the appraisement

Inventory and particulars to be transmitted by distrainer to *cauzy* or other officers empowered to sell distrained property.

Cauzy or other officer how to proceed, on receiving applications for the sale of distrained property.

praisement of the property, and the publication of the intended sale of it, which is to be made by beat of drum on one market day at the least before the market day on which the sale may take place, as well as on the morning of the day of sale; and the sale is in no instance to take place before the expiration of five complete days after the attachment, exclusive of the day on which the attachment may have been made. The same principle is to be observed with respect to the sale of ungathered products after the distrainer shall have gathered and stored them, as required by Section 13. of Regulation XVII. 1793, and which are not to be sold until publication shall have been made as above directed. In consequence of this alteration, which is made with a view to expedite the sale of distrained property, distrainers, when they attach the property of persons employed in the provision of the Company's investment, or in the manufacture of salt, are to give the notice directed in Section 31. of Regulation XVII. 1793, as soon as possible after making the attachment; and in such cases the property is not to be sold until sufficient time has been given to enable the Company's officers to satisfy the demand before the day of sale. The notice required by the above section however may, at the option of the distrainer, be either given to the commercial resident, or salt-agent, in whose division the defaulter may have been employed, or to the native superintendent of the factory or salt *chokee* to which the defaulter may be attached.

No sale to take place before expiration of five complete days after the attachment.

Or after storing products ungathered at the time of attachment.

Notice to commercial residents and salt agents, directed in Section 31. of Regulation XVII. 1793, to be given as soon as possible after attaching the property of persons employed in the Company's investment or manufacture of salt.

And sufficient time to be allowed for satisfying the demand in such cases.

But the required notice may be given either to the commercial resident or salt agent, or to the native superintendent of the factory or salt *chokee*.

V. As a compensation to the *cauzies* and other public officers empowered to dispose of property under distraint, both for their personal trouble, and for the expence they may incur in publishing and making such sales, as well as in causing the attached property to be appraised as direct d by Section 5. of Regulation XXXV. 1795, they shall draw a commission of one anna in the rupee on the amount sales of the property sold by them; to be deducted from the proceeds, and charged to the account of the defaulter, with the other expences attending the attachment. But no such commission shall be drawn, nor any charge made to the defaulter beyond expences actually and necessarily incurred, in the event of the sale being stopped by his discharge of the arrear due from him, or otherwise. It is expected that this allowance to the officers entrusted with the sale of distrained property, will ensure the faithful discharge of the trust reposed in them; and any collusion with the defaulter, distrainer, or purchaser, or other misconduct in the execution of the duty committed to them, will render them liable to immediate dismission from their offices in the mode provided by the regulations, besides subjecting them to the other penalties therein specified, and full damages to the party injured.

Commission to be drawn by officers authorized to sell distrained property, if the sale take place, but not otherwise.

Faithful discharge of trust expected in consequence of such allowance.

Punishment of collusion or other misconduct.

VI. By Section 8. of Regulation XXXV. 1795, the native commissioners appointed to determine suits not exceeding fifty rupees, under Regulation XLI. 1793, are authorized and required to dispose of distrained property under the prescribed rules, on application made to them, and the *zillah* judges are empowered to appoint as many other persons as may be requisite for facilitating the sale of property under distraint for arrears of rent. It is therefore no longer necessary to vest the *cauzies* generally with the powers delegated to them by Regulation XVII 1793, and it is now declared that such *cauzies* only shall be authorized to sell distrained property; under the provisions contained in Regulation XVII. 1793, and the subsequent rules in modification thereof, as may have been appointed commissioners for the trial of civil suits under Regulation XL. 1793, or who may be appointed commissioners for the sale of distrained property under Section 8. of Regulation XXXV. 1795. It is expected that the *zillah* judges will pay due regard to the character and qualifications of all persons whom they may appoint under this regulation; and they are to furnish the commissioners so appointed by them with commissions (*sunnuds*) under their official seals and signatures in the following form:

Recapitulation of Section 8, Regulation XXXV 1795.

Cauzies appointed under above section, or under Regulation XL. 1793, authorized to sell distrained property, at no others.

Zillah judges to regard the character and qualifications of persons appointed by them to sell distrained property

I A. B judge of the *dewanny adawlut* of the *zillah* of ————, in virtue of the powers vested in me by Regulation XXXV. 1795, appoint you ————, commissioner for the sale of property distrained on account of arrears of rent, in pursuance of the above regulation, and of Regulations XVII. 1793, and VII. 1799. You are to reside at ————, in *pergunnah* ————, and are to exercise the authority vested in you by the above regulations, or by any others that may be hereafter transmitted to you for your guidance, in strict conformity thereto; and are to keep a regular and complete record of your proceedings, to be produced when called for.

Form of commission given to the persons so appointed.

Commissioners for civil suits under Regulation XL. 1793, and *tehsildars* appointed by the collectors, to be considered commissioners for the sale of distrained property by virtue of their offices. But all commissioners for the sale of distrained property are to furnish any reports or information required from them by the *zillah* judges. And no person receiving a commission under Section 6. of this regulation, to be deprived of it whilst resident on the spot, without the sanction of the Sudder Dewanny Adawlut. Rules for the appointment and removal of commissioners for civil suits under Regulation XL. 1793, declared applicable to the commissioners above referred to.

Judges of cities of Dacca, Moorshedabad, and Patna authorized to appoint commissioners for the sale of distrained property within their respective jurisdictions.

Further penalties for resistance to attachments for arrears of rent, as prescribed by the regulations.

Offenders liable to damages equal to twice the amount of the property rescued from attachment. And property taken away may be re-attached wheresoever found. Offender and all persons concerned with him also liable to be apprehended and prosecuted for any breach of the peace. Police officers how to act on information given in such cases.

Claims to property distrained and sold, to be preferred in the *dewanny adawlut*.

In what cases judgment, for value of such property, with costs and damages, to be given against the distrainer.

Rules as to claim to ground products attached in possession of defaulter, to bar the prior claim of ground rent.

VII. The commissioners for the trial of civil suits appointed under Regulation XL. 1793, and the *tehsildars* appointed by the collectors for the collection of the public revenue, who are authorized to sell distrained property by Section 29. of Regulation XVII. 1793, are to be considered commissioners for the sale of distrained property by virtue of their offices of commissioners for civil suits, and *tehsildars*, so long as they may continue to hold such offices; and any separate commissions to them for this purpose will not be requisite: but the whole of the commissioners appointed to sell distrained property are at all times to furnish any reports or other information that may be required from them by the *zillah* judges; and no person receiving a commission under Section 6. of this regulation, is to be deprived of it, whilst he may reside on the spot, without sufficient reason assigned to the satisfaction of the court of Sudder Dewanny Adawlut, to whom the *zillah* judges are to report all appointments made, and commissions issued by them under this regulation, in the same manner, and under the same rules, as have been prescribed for the nomination and removal of commissioners for the trial of civil suits by Regulation XL. 1793.

VIII. The judges of the cities of Dacca, Moorshedabad, and Patna, are authorized to appoint any number of commissioners that may be requisite for the sale of distrained property within their jurisdictions respectively, in like manner and form as has been prescribed to the *zillah* judges.

IX. In addition to the penalties provided by Section 19. Regulation XVII. 1793, it is hereby declared, that if any under-tenant, of whatever description, shall resist or cause to be resisted the attachment of his property for arrears of rent in the mode prescribed by the regulations so as to prevent the attachment from taking place, or shall forcibly or clandestinely take away such property after it shall have been attached; such offender shall, on proof before the *dewanny adawlut*, be made liable to damages to the distrainer equal to twice the amount of the property rescued from attachment, and the property so taken away may be re-attached by the distrainer wheresoever it may be found. The offender and all persons concerned with him in resisting the attachment, are moreover declared liable to be apprehended and prosecuted before the criminal courts for any breach of the peace committed by them in such resistance to the attachment; and the police officers, on information of such, are immediately to repair to the spot, and take all proper measures under the regulations, as well to apprehend and send to the magistrate any persons who may appear to have broken the peace, as to support distrainers in the due exercise of the legal powers vested in them. If any person, not being the defaulter or responsible for him, claim as his right the property distrained, and the distrainer shall notwithstanding cause the same to be sold, the claimant, on proof of his right in the *dewanny adawlut*, and in the event of the distrainer being unable to prove that he was responsible for the arrear on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with all costs and damages, according to the circumstances of the case. But no claim to crops upon the ground or to any gathered product of the ground attached in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall bar the prior claim of rent due for the ground upon which such crop or product may have been grown, it being the undoubted right of the owner of the land, or his representative, to consider the produce of it mortgaged to him, for the rent of the land in the first instance, and in default of his rent being paid as engaged for (or determinable by local rites and usage where there may be no specific engagement) to distrain and sell such part of the product as may be necessary to make good the arrear due to him.

Modification of restrictions in Section 21. of Regulation XVII. 1793.

Distrainer, in presence of a police officer, may force open the outer door of a dwelling-house in which he has reason to suppose the defaulter's property to be lodged.

X. The restrictions contained in Section 21. of Regulation XVII. 1793, which prohibit distrainers from forcing open the outer door of any dwelling-house, and from entering the *zenana* or apartments of women, having been found liable to abuse, such restrictions are hereby modified as follows. When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, he is at liberty to represent the same to the police *darogah* within whose jurisdiction the house may be situated, and on such representation the police *darogah* is to send a police officer to the spot, in the presence of whom the distrainer is authorized to force open the outer door of the dwelling-house in which he may have reason to suppose the defaulter's property to

to have been lodged, in like manner as he is already authorized to break open the door of any room within a dwelling-house, except the *zenana*. He may also, in the presence of the police officer, after due notice given for the removal of any women within the *zenana*, and after furnishing means for their removal in a suitable manner, if they be women of rank, who according to the customs of the country cannot appear in public, enter the *zenana* apartments for the purpose of attaching any of the defaulter's property deposited therein. But such property, if found, shall be immediately removed from such apartments, after which they are to be left free to the former occupants; and nothing in this regulation is to be understood to authorize any distrainer or his agent to force open the door of a dwelling-house, or to enter the apartments of women which by the usage of the country are considered private, in any other mode than is herein prescribed; a wilful deviation from which will subject the offender to heavy damages, besides forfeiture of the arrear of rent on account of which the distress may be levied.

And with certain precautions may enter *zenana* apartments to attach property.

But such property to be immediately removed; and the apartments left free to occupants.

Penalty for forcing open the door of a dwelling-house, or entering the apartments of women considered private, in any other mode than is herein prescribed.

XI. In all cases wherein persons authorized to distrain property for arrears of rent may apply to the police *darogah* of the jurisdiction to depute a police officer to be present at the time of making the attachment, with a view to prevent resistance or other breach of the peace, the police *darogah* shall, as far as may be in his power, immediately comply with such applications; and the police officers so deputed shall use every means in their power to prevent resistance or other breach of the peace in such cases. He shall also give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereupon, if afterwards required, either before the judge or magistrate.

Police *darogahs* on application to depute an officer to be present at attachments for arrears of rent.

Officers so deputed, to use every means to prevent resistance or other breach of the peace, and to observe the conduct of distrainers.

XII. It being a frequent practice with the under-tenants to lodge unfounded complaints in the *foujdaree adawlut* against persons attaching their property, as well as against the whole of the officers employed in collecting their rents, and likewise to cause their being summoned as witnesses in causes with the merits and circumstances of which they are totally unacquainted, for the sole purpose of creating embarrassment and delay in the collection of the rents, the courts of justice are required at all times to discourage and punish such culpable practices, as far as the powers vested in them by the regulations may admit. Section 10. of Regulation IX. 1793, is to be strictly enforced in all cases of litigious and unfounded complaints, of the nature herein referred to, before the magistrate; and in instances of the *zemindaree* officers or others employed in the collections being improperly summoned, as witnesses, in the civil courts, the party who summoned them should be compelled, under Section 6. Regulation IV. 1793, to make them such allowance for their expences as may be sufficient for their full indemnification. It is further hereby declared, that if any person shall wantonly, and without good cause, be the means of summoning to the courts of justice, civil or criminal, the principal officer, or any officer engaged in collecting the rents of any *zemindar*, *talookdar*, or other landholder or farmer of land, and a loss of rent, or other evident damage, shall be sustained by the landholder, or farmer, in consequence of such wanton and unnecessary summons, an action shall lie against the party who caused the summons, for such loss or damage, and on proof thereof in the *dewanny adawlut*, or before the native commissioners appointed under Regulation XL. 1793, if the case be cognizable by them, the party injured shall be entitled to recover the amount with all costs of suit.

The courts of justice to discourage and punish unfounded complaints against persons attaching property, or officers employed in collecting the rents; as well as their being summoned as witnesses merely to create embarrassment and delay in the collections.

Section 10. of Regulation IX. 1793, and Section 6. of Regulation IV. 1793, to be strictly enforced in such cases.

Compensation to be adjudged also, with all costs of suit, for any loss or damage sustained by the wanton unnecessary summons of any officer engaged in collecting the rents.

XIII. The civil courts are already directed by Section 34. of Regulation XVII. 1793, to hear and determine all suits instituted under that regulation previous to any others that may be depending; and by Section 22. of Regulation III. 1794, they are instructed to appropriate one day in each week, or two or more days if necessary, for the trial of suits regarding the rent of land and the public revenue assessed thereupon. The strictest observance of these rules is required from the *zillah* and city judges and their registers, as well as from the courts of appeal when cases of the above description may be under appeal; and in all cases cognizable by the native commissioners appointed under Regulation XL. 1793, they are to hear and determine suits respecting rent or revenue before any others that may be depending. It is further hereby declared, that Section 33. of Regulation XVII. 1793, which authorizes persons whose property may have been distrained to sue for any injury sustained thereby in the *zillah dewanny adawlut*, and allows landholders and farmers of land to sue defaulters or their sureties in the *zillah dewanny adawlut* for arrears of rent, instead of distraining their property, if such mode of procedure be preferred by them, was not

Strictest observance required of Section 34. Regulation XVII. 1793, and Section 22. Regulation III. 1794.

And native commissioners under Regulation XL. 1793, to determine suits respecting rent or revenue before any others depending.

Explanation of Section 33. Regulation XVII. 1793.

Not meant to restrict native commissioners from taking cognizance of suits for rent or revenue not exceeding fifty sicca rupees.

not meant to restrict the native commissioners appointed under Regulation XL. 1793, from taking cognizance of any suits of the above description not exceeding fifty sicca rupees, whether preferred to them in the first instance in their capacity of *munsiffs*, or referred to them by the judges of the *dewanny adawlut* under the provisions contained in the above regulation.

Recapitulation of summary process for arrears of rent exceeding 500 rupees authorized by Regulation XXXV. 1795.

XIV. To enable proprietors of land to recover more speedily arrears of rent from their under-tenants, which from the largeness of the amount cannot be immediately realized by the levy of distress on the personal property of defaulters and their sureties, a summary process was enacted by Section 9, and the succeeding sections of Regulation XXXV. 1795, whereby dependant *talookdars*, under-farmers and *ryots*, or their sureties, for arrears of rent exceeding five hundred sicca rupees, were made liable to confinement, after notice of three days to the defaulter, and a summary enquiry respecting the arrear before the judge of the *dewanny adawlut*. The limitation of five hundred rupees, and the opportunity left to defaulters and their sureties to abscond, by the notice directed in Section 10. of the above regulation, have been found however in a great degree to defeat the ends proposed, and the fraudulent and evasive conduct of under-tenants, who are not the immediate cultivators of the land, and have little personal property that can be distrained, renders it necessary to give further aid to the landholders and farmers for the recovery of arrears of rent due from under-tenants of this description. The following rules therefore are enacted, instead of Section 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20, of Regulation XXXV. 1795, which are to be considered as superseded thereby.

Circumstances which have tended to defeat the ends proposed by the above regulation.

Following rules enacted, instead of Sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20, of Regulation XXXV. 1795.

Any landholder or farmer to whom an arrear of rent may be due from an under-tenant which cannot be realized by distress, may cause the arrest of the defaulter and his surety in the manner following.

XV. *First.* Any *zemindar*, *talookdar*, or proprietor or farmer of land, to whom an arrear of rent may be due from a dependant *talookdar*, *kutkinaglar*, *jotedar*, or other under-tenant of whatever denomination, which cannot be realized by distraining the personal property of such under-tenant, and his surety (if he shall have given security), is at liberty, after demanding such arrear from the defaulter, and from his surety if forthcoming, or without any express demand if he have reason to believe that the defaulter or his surety is prepared to abscond, to cause the immediate arrest of such defaulter and his surety in the manner following.

Petition to be presented to judge of the *dewanny adawlut* or native commissioner appointed under Regulation XL. 1793.

What such petition is to contain.

Second. The proprietor or farmer to whom the arrear may be due, or his authorized agent, is at liberty to present a petition to the judge of the *zillah dewanny adawlut*, or in cases wherein there may be reason to apprehend the immediate elopement of the defaulter or his surety, to the native commissioner appointed under Regulation XL. 1793, within whose jurisdiction the party may reside, setting forth in specific terms the arrear due from the defaulter, and praying that he and his surety (in case he shall have given security) may be taken into custody, unless the amount be paid. On the receipt of a petition to this effect by a native commissioner appointed under Regulation XL. 1793, he shall, if the defaulter and his surety, or either of them be within his jurisdiction, immediately cause such party to be arrested, and unless immediate payment be made of the arrear demanded, shall within twenty-four hours, cause him to be conveyed to the judge of the *zillah dewanny adawlut*; who shall proceed thereupon in like manner as he is hereafter directed to do in the event of the petition having been presented to him, and of the party having been arrested by his immediate order. But no native commissioner shall detain any defaulter or surety in custody, without sending him to the judge, above twenty-four hours, under penalty of being dismissed from his office, and made liable to prosecution for false imprisonment, unless the party in arrest shall, by a written application, desire the same for the purpose of adjusting his arrear with the party who caused his arrest, and the latter shall assent thereto; in which case his written acquiescence is to be superscribed or endorsed on the application with his signature; and to be written in such specific terms as may leave no doubt of the time for which such assent to stay process is given.

Native commissioner how to proceed on receipt of such petition.

And judge how to proceed, on the party arrested by a native commissioner being brought before him.

No commissioner to detain a defaulter or surety in custody, without sending him to the judge, above twenty-four hours.

Except by desire of the parties, and under a written assent to stay process.

Judge how to proceed, if the petition of arrest be presented to him in the first instance.

Third. If the petition of arrest, stated in the preceding clause, be presented in the first instance to the *zillah* judge, (and to save time, it is allowed to be presented either in or out of court, and by any authorized agent, whether one of the established *vakeels* of the court or otherwise,) the judge, if the defaulter or surety be within his jurisdiction, is immediately to issue a *dustuck* for the arrest of such party, and to bring him before the court, unless he pay the arrear demanded, and if such payment be not made on the service of the *dustuck*, or within twenty-four hours afterwards, (which time is to be allowed to the party arrested to adjust the demand,) the officer charged with the *dustuck* is to complete the execution thereof by con-

Dustuck for arrest issued by the judge how to be executed.

veying the party to the *zillah* court. Provided, however, that if the party arrested shall by a written application, request a longer period than twenty-four hours to adjust the demand against him, and the party causing the arrest shall, by a written superscription or endorsement on such application, acquiesce therein, the officers charged with the *dustuck* shall delay the execution accordingly; and whenever the party at whose instance the *dustuck* may have been issued shall, by a written *derkhaust*, declare himself satisfied, and desire the arrest to be withdrawn, it shall be immediately withdrawn accordingly, the officers charged with the *dustuck*, (who are never to exceed two in number, unless in any particular case a greater number be considered necessary to prevent escape,) being at the same time paid the *tullubbana* due to them according to the rate established by Section 3. of Regulation XIV. 1793, viz. two annas per diem, or any lower rate that may have been the customary allowance to persons deputed with revenue processes.

Dustuck when to be withdrawn.

Number of officers to be charged with *dustuck*.

And rate of *tullubbana* to be allowed them.

Fourth. When a defaulter or his surety may be brought to the *zillah* court under either of the two preceding clauses, the judge shall call upon him to answer the demand against him, and if he deny it, or any part of it, shall enter upon a summary enquiry into the merits of it, by examining the vouchers and accounts of the parties: or may refer the case to the collector of the district for adjustment and report, as he is authorized to do in all causes of rent, and other matters heretofore cognizable in the courts of *maal adawlut*, by Section 13. of Regulation VIII. 1794; and as the judges in general are now required to do, in every cause of this description, which neither themselves or their registers may be able, from other avocations, to try and determine without delay, and which may not be cognizable by the native commissioners acting under them. The landholders and farmers are allowed to employ any *vakeel* they may think proper to appoint, provided he be duly empowered by them to attend such enquiries, before the collectors, as well as the summary enquiry directed in this regulation before the judge.

Summary enquiry to be made by the judge upon a party's being brought before him under either of the two preceding clauses.

Or case to be referred by him to the collector for adjustment and report.

Judges required to refer to the collectors, under Section 13. of Regulation VIII. 1794, all causes heretofore cognizable in the courts of *maal adawlut*, which neither themselves or their registers may be able to determine without delay, and which may not be cognizable by the native commissioners.

Fifth. The judge, after receiving the collector's report, if the case be referred to him for adjustment, or after completing his own enquiry, if it be not so referred, is to discharge the defendant, with full costs and damages, if it appear that no arrear is due from him; or that the arrear demanded has been wilfully misstated by the plaintiff, and a considerable proportion of the demand is not justly due to him. But if it appear that the arrear demanded, or a considerable proportion thereof, be justly due from the defendant, he is to be kept in close custody, until he pay the amount, with all costs, and interest on the arrear at the rate of one per cent. per mensem; or until plaintiff make application to the court for his release. The plaintiff is to pay to such defendants, whilst in confinement, the same allowance for their subsistence as is fixed for other prisoners in the jail of the *dewanny adawlut* by Section 8. of Regulation IV. 1793, viz. such allowance as the judge may think proper on consideration of the rank and situation of the prisoner, not exceeding four annas, nor less than one anna per diem; and the payment is to be made in the same manner, and under the same provisions as prescribed in the above section.

In what cases defendant is to be discharged with costs and damages.

Defendant to be kept in close custody, if the arrear demanded or a considerable proportion thereof be found due from him, and to pay costs and interest.

Subsistence allowance to be paid by plaintiff to the defendant whilst in confinement.

Sixth. When an under-farmer, *jotedar*, or other under-tenant, arrested as above described, shall not immediately discharge the arrear demanded from him, and shall in consequence be taken in custody to the judge of the *dewanny adawlut*, the proprietor or farmer of land to whom such arrear may be owing, is at liberty to attach the farm, *jote*, or other tenure of such defaulter, and to manage the same by his own agents, or in such manner as he may think proper, until the rent due to him, with the further rent that may become due after the attachment, and interest upon the whole arrear at the rate of one per cent. per mensem, shall have been liquidated from the produce. But in such cases of attachment, the proprietor or farmer making the same shall not exact more from the cultivators of the soil, and other descriptions of inferior tenantry, whose rents for the current year may have been payable to the defaulter, than the defaulter himself would have been entitled to receive from them if the attachment had not taken place, (cases of collusion and illegality under the regulations excepted;) and in the event of the defaulter making good the arrear due from him, with interest at the rate of one per cent. per mensem, at any time within the current year, the attachment shall be immediately withdrawn, and a full and fair account rendered to him of all receipts and disbursements during the continuance of it.

In what cases proprietors and farmers of land may attach the farm, *jote*, or other tenure of their defaulting tenants, and collect therefrom the arrears of rent due to them with interest.

Restriction against undue exactions from the cultivators of the soil and other inferior tenantry in such cases.

Attachment to be withdrawn on payment of the arrear due with interest at any time within the current year. And a fair account rendered of all receipts and disbursements.

What further measures may be taken by the landholders and farmers for the security of their future rents, if the arrears due to them be not liquidated within the current year.

Defaulting under-farmers whose leases may have expired can have no claim to any further lease.

And although their leases may not have expired, neglect to pay the stipulated rent subjects the farms of this description of defaulters to be annulled at the option of the lessor.

If the defaulter be a dependant *talookdar* or the holder of any other transferable tenure, it may be brought to sale for the arrear by application to the *dewanny adawlut*. Or if the defaulting tenant have right of occupancy only depending on the payment of a certain rent, he may be removed from the tenure he has forfeited by a breach of the condition of it.

Proprietors and farmers of land at liberty to exercise their just powers in the cases herein stated without previous application to the courts of justice.

But will be held responsible for all acts done by them or their agents beyond their just powers, infringing the rights of their under-tenants of whatever description.

This regulation not intended to define or limit the rights of any description of landholders or tenants; but merely to point out in what manner defaulting tenants may be proceeded against; leaving them to recover their rights, if infringed, with costs and damages, in the courts of justice.

The courts of justice in all other instances to determine the rights of every description of landholder and tenant when regularly brought before them.

Explanation that no part of the existing regulations was meant to deprive the landholders of the power of causing the attendance of their tenants for the adjustment of their rents, &c. for any other just purpose; or of measuring any land liable to measurement under the conditions on which it may be tenanted.

Penalty for any opposition to the landholders in the just exercise of these rights.

Also for any abuse or unjust exercise of the above powers by the landholder, their agents or representatives.

Seventh. If the arrear be not liquidated within the current Bengal, Fussily, or Willaity year, (according as the place may be situated in the province of Bengal, Behar, or Orissa,) either by the payments of the defaulter or his surety, or by the attachment of his tenure, the *zemindar* or other proprietor of the land, or the farmer in whose farm the defaulter's tenure may be included, (if such farmer's lease extend beyond the current year,) is at liberty, at the commencement of the ensuing year, to make such provision for the future receipt of the rents payable to him from the land tenanted by the defaulter as he may judge proper, and may be consistent with the rights of all other persons concerned. If the defaulter be an under-farmer for the past year only, or whose lease may have expired with the past year, he can, of course, have no claim to any further lease; and although his lease may not have expired, if he shall have neglected to fulfil the conditions of it by the payment of his stipulated rent, it must be considered liable to be annulled, or otherwise, at the option of the lessor. If the defaulter be a dependent *talookdar*, or the holder of any other tenure which, by the title deeds or established usage of the country, is transferable by sale or otherwise, it may be brought to sale, by application to the *dewanny adawlut*, in satisfaction of the arrear of rent; and the purchaser will become the tenant for the new year: or if the defaulter be a leaseholder or other tenant, having a right of occupancy only so long as a certain rent, or a rent determinable on certain principles according to local rates and usages, be paid, without any right of property or transferable possession: the proprietor of whom such tenure is held, or the farmer or other person to whom such proprietor may have leased or committed his rights, must be understood to have the right of ousting the defaulting tenant from the tenure he has forfeited by a breach of the conditions of it. In such cases, (viz. in the several cases enumerated in this clause, under the stated exception when a sale of landed property may be desired,) proprietors and farmers of land are at liberty to exercise the just powers appertaining to them, without any previous application to the courts of justice; but they will be held responsible for all acts done by them, or by their agents, which may exceed their just powers, and infringe the rights of under-tenants of whatever description, whether founded on *puttahs* or other written deeds and engagements, or on long prescription and established local usage. This regulation is not meant to define or limit the actual rights of any description of landholders or tenants; which can be properly ascertained and determined by judicial investigation only; but merely to point out in what manner defaulting tenants may be proceeded against in the event of their not paying the rents justly due from them, leaving them to recover their rights if infringed, with full costs and damages, in the established courts of justice, under the provisions already stated in this regulation for bringing such causes to a determination with the least possible delay.

Eighth. In like manner, in all other instances, the courts of justice will determine the rights of every description of landholder and tenant, when regularly brought before them; whether the same be ascertainable by written engagements; or defined by the laws and regulations; or depend upon general or local usage, which may be proved to have existed from time immemorial; but it is hereby declared, that no part of the existing regulations was meant to deprive the *zemindars* and other landholders of the power of summoning, and if necessary compelling the attendance of their tenants for the adjustment of their rents; or for any other just purpose, or of measuring any land within their respective estates which may be liable to measurement under the conditions upon which such land may have been leased or held. For the just exercise of such rights and powers, the landholders are not required to make any previous application to the courts of justice; and any person opposing them therein will, on proof in the *dewanny adawlut*, be liable to full damages and all costs; besides being subject, for any breach of the peace, to prosecution and punishment in the criminal courts. But the landholders, their agents and representatives, will be held answerable for any abuse, or unjust exercise of the powers hereby declared to be vested in them, and on proof thereof by the party aggrieved in the *dewanny adawlut*, will be liable to full costs and damages; besides a fine to Government if the case shall appear to deserve it. The execution of specific engagements and delivery of receipts for payments, in all instances, will tend most to the security of the landholders and their tenants, in removing all doubt of the exact terms of agreement between them; or of the amount paid and due; and the provisions in Regulation VIII. 1793, for this purpose, are to be pointed out to them, by the courts of justice, as well as by the collectors, on every proper occasion, as their mutual safeguard against all undue demands

demands on the one side, and evasions on the other, which the rules in that regulation were expressly enacted to prevent. As a further security to the *zemindars* in maintaining their rights over the dependant *talookdars* continued under them, the latter are hereby required to register in the *sudder cutcherree* of the *zemindaree* to which their *talooks* may be attached, all transfers of such *talooks* or portions of them, by sale, gift, or otherwise; as well as all successions thereto and divisions among heirs in cases of inheritance: and whenever any distribution of the *jumma* of a dependant *talook* may become necessary on a division thereof, the written consent of the *zemindar* to whom such rent may be payable, is to be previously obtained, without which no distribution of a *talookdaree jumma* will be valid, or exonerate the entire *talook* from its responsibility to the *zemindar*. Moreover, the *zemindars* who, by Section 48. of Regulation VIII. 1793, were directed to deliver to the collectors a record of the engagements entered into between them and their dependant *talookdars*, at the period of the decennial settlement, specifying the names of the *talookdars*, their *talooks*, and the *jumma* of each; are to deliver a similar record, annually, or whenever it may be required; including any alterations which have been registered in their respective *cutcherrees*, under this regulation.

Execution of specific engagements and delivery of receipts for payments as directed in Regulation VIII 1793, the best security both to landholders and tenants.

And the provisions in that regulation to be pointed out to them by the courts of justice and collectors on every proper occasion, as their mutual safeguard against exaction and evasion.

Dependant *talookdars* required to register in the *sudder cutcherree* of the *zemindaree* to which their *talooks* are attached, all transfers by sale, gift, or otherwise, as well as all successions and divisions.

Written consent of the *zemindar* to be obtained to any distribution of the *jumma*, payable to him from a dependant *talook*, without which the entire *talook* to remain responsible to him.

Zemindars to deliver to the collectors annually, or whenever required, the record specified in Section 48. of Regulation VIII. 1793, including any alterations registered in their *cutcherrees* under this regulation.

XVI. Persons confined under the fifth clause of the preceding section, and desirous of bringing the demand upon them to a regular judicial investigation and decision in the *dewanny adawlut*, are at liberty to institute a suit against the landholder or farmer, at whose instance they may have been confined, for this purpose; and should the amount denied by them be found upon trial not to have been due, they shall receive a judgment for full costs and damages against the party by whom it may have been claimed. They shall also be entitled to a similar judgment, with interest at the rate of one per cent. per mensem, upon the amount paid by them, and found not to have been justly due from them, if they shall discharge the demand upon them with a view to obtain their release from arrest, or from subsequent confinement, under the preceding section, and shall afterwards, on a suit in the *dewanny adawlut* for recovery of the amount so paid, establish that it was not due from them at the time of the demand.

Persons confined under the fifth clause of preceding section, may institute a suit in the *dewanny adawlut*.

Judgment to be passed if the arrear denied by them be found not due.

Or if the demand be discharged by them, and afterwards found not due.

XVII. Proprietors and farmers of land, whose claims to arrears of rent may be rejected by the *zillah* judge, on the summary enquiry directed in Section 15. of this regulation, are also at liberty to institute a regular suit in the *dewanny adawlut* for the recovery thereof; and if, on trial, the amount claimed by them shall be found to have been due when the summary judgment was given against them in the first instance, they shall be entitled to receive back any sums paid by them for costs or damages under such judgment, and to a decree from the *zillah* court for the arrears of rent due to them, with interest at the rate of one per cent. per mensem, and full costs incurred by them, as well on the summary enquiry as on the regular suit.

Claims rejected on the summary enquiry may be also sued for in the *dewanny adawlut*.

Judgment to be given if such claims be established on the regular suit.

XVIII. That no doubt may be entertained whether the summary judgments which the *zillah* courts are authorized to pass under Section 15. of this regulation, are open to appeal to the provincial courts of appeal, it is hereby declared, that they are not subject to appeal; as any person considering himself aggrieved by them can have his remedy by a regular suit in the *dewanny adawlut*, as above pointed out, it is also declared that no institution fees, or fees upon exhibits, are to be levied on the summary processes authorized by the section above mentioned; but the rules in Regulation VI. 1797, and in any other regulation relative to stampt paper, are to be considered applicable to the processes in question, as in all other cases wherein stampt paper is required to be used, whether for original papers or for copies.

Summary judgments under Section 15, not open to appeal.

Institution fee and fee on exhibits, not to be levied on summary processes, but rules concerning stampt paper applicable to them.

XIX. The rules in the whole of the preceding sections for the recovery of arrears of rent due to proprietors and farmers of land, are to be considered equally applicable to the managers of the estates of disqualified landholders, and of joint undivided estates; as well as to collectors or other public officers holding lands in attachment for the purpose of adjusting the public assessment on them, or for any other purpose; or making a *khas* collection on the part of Government, where no settlement has been made with any proprietor or farmer; and the authorized agents of such managers, collectors, or other public officers, provided they be so commissioned and instructed, are to exercise the same authority as is vested in the agents of proprietors and farmers of land by Section 2. of this regulation.

Rules in preceding sections applicable to managers of estates of disqualified landholders, and of joint undivided estates, as well as to the officers of Government holding lands in attachment, or under a *khas* collection.

XX.

The foregoing provisions for the *zillahs* to be also in force in the cities of Dacca, Moorshedabad, and Patna.

Provisions in Section 15. as far as applicable, extended to the agents of landholders and farmers whilst in their service, or immediately after their resignation or dismission.

Punctuality expected from landholders and farmers in the payment of their revenue to Government, under the aid now afforded them in the realization of their rents.

Expectations from the permanent assessment and opposite conduct of many of the principal *zemindars*.

Objects of following rules, and

Reasons for not renewing former usage of confining defaulting landholders.

Recapitulation of Regulation III. 1794.

Sections 4, 5, 6, 7, 9, and 10, of Regulation III. 1794, rescinded.

Landholders and farmers to be charged with interest on all arrears of revenue.

XX. It is further to be understood, that whatever powers and duties are vested in, and required from, the *zillah* judges by any part of the preceding sections of this regulation, are meant to be equally vested in, and required from, the judges of the cities of Dacca, Moorshedabad, and Patna; and the whole of the foregoing provisions to be in force throughout these cities as far as the same may be applicable. The provisions in Section 15. as far as they can be applied, are likewise declared to extend to the *sudder* and *mofussil amlah*, or native agents of every description, employed by the landholders and farmers in the management of their estates or farms, or collection of their rents. Any landholder or farmer having demands upon such agents whilst in his service, or immediately after their resignation or dismission from his service, whether for money in their hands, or for accounts which they may refuse to render, or for any matter relating to the discharge of their respective trusts whilst in his employ, may proceed against them for their arrest and confinement, in like manner as by Section 15. of this regulation, he is authorized to proceed against defaulting under-tenants; and the *zillah* and city courts and native commissioners are to take the same measures for the aid of the landholders and farmers in such cases, as they are directed to take for the recovery of arrears from defaulting tenants.

XXI. The foregoing rules will afford proprietors and farmers of lands the means of realizing their rents with promptitude and facility; and the utmost punctuality will consequently be expected from them in the payment of their revenue to Government. The motives stated in the preamble to Regulation III. 1794, induced the Governor General in Council to discontinue the mode of coercion, which had been practised from time immemorial, of confining proprietors of land on their failure in the discharge of the public revenue engaged for by them: and it was expected, that the permanent assessment on their estates, which they were left to improve to the utmost without any addition of revenue, would be paid so readily and punctually as to render it seldom necessary to have recourse to any means of coercion. Instead of fulfilling these reasonable expectations, however, many of the principal *zemindars* have withheld their revenue; and taking advantage of the want of information in the public offices of the actual produce of their estates from the discontinuance of former checks and scrutinies, have encouraged, instead of preventing, the public sale of portions of their lands, for the purpose of repurchasing the same in fictitious names, at an under-rated assessment; or of reducing the assessment upon the residue of their estates by over-rating the proportions sold. The following rules are enacted to remedy abuses of this nature; as well as to secure the more punctual realization of the public revenue, without the necessity of frequent sales of land in the course of the year, which have been found liable to many ill consequences; and the Vice-President in Council, still desirous of enhancing the value of landed property, and of promoting as far as possible the ease of the proprietors, by considering their property alone a sufficient security for the public dues, without subjecting them to any personal restraint, except in cases of necessity, has forbore to renew the usage above referred to, whilst there can be a hope of realizing the fixed assessment on their lands according to the stipulated periods of payment without it.

XXII. Proprietors and farmers of land paying revenue immediately to Government are already required by Section 2. of Regulation III. 1794, to cause the whole of the instalment due from them for each month to be paid into the treasury of the collector of the *zillah*, or to the *tehsildar* or other officer appointed to receive the same, on or before the first day of the following month, without waiting for a demand of the amount by the collector or *tehsildar*; and by Sections 4. and 5. of the above regulation, proprietors of land, who may not discharge the instalment due from them on account of any one month by the fifteenth of the following month, and who, after being served with the notice directed in Section 3. of Regulation XIV. 1793, may not liquidate the arrear due from them by the time therein limited, are declared liable to the payment of interest at the rate of twelve per cent. per annum on the amount due from them; and (after reference to the Board of Revenue,) to the immediate public sale of their lands under the rules prescribed for the disposal of lands on account of arrears of revenue. Sections 4, 5, 6, 7, 9, and 10, of Regulation III. 1794, are now rescinded; and the following rules are enacted instead of them.

XXIII. *First.* If the whole or any part of the monthly instalment due from any proprietor or farmer of land be not paid on or before the first day of the following month, as

required by Section 2. of Regulation III. 1794, the defaulter, for the amount remaining undischarged, shall be liable to the payment of interest at the rate of one per cent. per mensem from the date on which the arrear became due, until it be discharged, as provided by Section 7, of Regulation XIV. 1793; but with this difference, that the collector shall not wait the order of the Board of Revenue, nor shall the Board of Revenue wait the sanction of the Governor General in Council, to levy such interest, which is to be demanded and enforced (in the same manner as all other revenue demands are enforced) as the common interest upon money due, unless in any particular instances it should appear to the collector just and proper to exempt the defaulter from the payment of such interest; in which case he is to report the circumstances to the Board of Revenue, and be guided by their instructions.

Exception.

xx *Second.* In the event of any arrear of revenue, as described in Section 2. of Regulation XIV. 1793, being undischarged on the first day of the month succeeding that for which the arrear may be due, the collector, if the revenue be payable into his treasury, or if not, the *tehsildar* or other public officer to whom the same may be payable, is immediately to require payment thereof with interest at the rate of one per cent. per mensem, in the mode prescribed by Section 3. of the above regulation; and if the arrear shall not be discharged according to such requisition, or assurance given for the immediate payment thereof to the collector's satisfaction, he shall proceed without delay to attach the estate of the proprietor from whom the arrear may be due; or such portion thereof as he may consider fully sufficient to make good by a sale the arrear due, with interest; or, if the arrear be due from a farmer, shall proceed without delay both to attach his farm and arrest his person, (as well as the person of his surety, if he have given security,) in the mode prescribed by Sections 5. and 6. of Regulation XIV. 1793. This rule of course supersedes Section 4. of the above regulation (which has already been rescinded, as far as respects proprietors of land, by Section 3. of Regulation III. 1794); but is not meant to supersede Section 13. of Regulation III. 1794, with respect to proprietors or farmers of land paying their revenue to a *tehsildar*, or other *mofussil* officer, who is thereby directed to demand payment of the arrear by the same process as the collectors are required to observe in Section 3. of Regulation XIV. 1793: and to report to the collector in case the arrear be not liquidated by the limited period. If the farmer shall have given security, and the collector have no reason to believe that he will abscond, he is not to issue the process prescribed in Section 5. of Regulation XIV. 1793, for the confinement of the defaulter or his surety, until the defaulter has been served with the written demand for the arrear directed in Section 3. of the above regulation; but if the collector have reason to believe that the defaulter, or his security, is prepared to abscond, he is authorized to issue the process prescribed in Section 5. of the above regulation, both against the defaulter and his surety, without having issued the previous demand directed in Section 3. of the above regulation: and in like manner, if the *tehsildar*, or other *mofussil* officer entrusted with the collections, shall have reason to believe that any defaulting farmer whose revenue may be payable to him, or his surety, is prepared to abscond, so as not to allow time for his making report to the collector as directed in Section 13. of Regulation III. 1794, he is authorized to arrest such defaulter and his surety, without waiting for the collector's process under Section 5. of Regulation XIV. 1793, by a similar process under his own seal and signature; and to cause the party arrested to be immediately conveyed to the collector, to be further proceeded against as directed in the above regulation. Instead however of carrying the defaulter forthwith to the jail of the *dewanny adawlut* as directed in Section 5. of Regulation XIV. 1793; the collectorn, if the defaulter shew any disposition to adjust and satisfy the demand upon him, is at liberty to keep him in the custody of *peons* during a period not exceeding ten days from the date of his arrival at the collector's station; at the expiration of which period, if the arrear be not paid, or satisfaction given for the immediate payment thereof, so as to induce the collector to release the defaulter, he is to be brought before the judge of the *dewanny adawlut*, and confined in the jail of that court as directed in the section above mentioned. This qualification of the rule contained in that section, is to be considered applicable to all cases under the original rule, or to which it may be extended by the present or any other regulation: but it is not meant to restrict the collectors from observing the original rule in any instances where the defaulter may shew no disposition to adjust and satisfy the demand upon him; or where, for any other reason, it may appear to them objectionable to suspend the confinement of the defaulter or his surety.

Requisition to be made immediately on any arrear of revenue.

Process if the arrear be not paid on such requisition, or assurances of payment given.

Estates of landholders to be attached.

Farms to be attached, and farmers and their sureties arrested.

Section 4. of Regulation XIV. 1793, superseded by this rule.

But not Section 13. of Regulation III. 1794.

In what cases farmers and their sureties may be arrested, without the previous demand directed in Section 3. of Regulation XIV. 1793.

In what cases and for what period the collector may keep defaulting farmers and their sureties under custody of *peons*, instead of having them confined in the jail of the *dewanny adawlut*.

This qualification of Section 5. Regulation XIV. 1793, made general.

But not restrictive on the collectors.

xx Mod.d by S 2 R. I of 1801 also by S 2 R XVIII 1814 & 11 C 3 S 2 R XI 1822 Third.

x Res.d by S 2. R. I of 1801

Attachments under preceding section when to be withdrawn.

Third. After the attachment of the lands of defaulting proprietors, or the attachment of the farms of defaulting farmers, in conformity to the preceding clause, if the arrear due, with any further arrear that may become due from the same proprietor or farmer, with interest thereupon at the rate of one per cent. per mensem, be discharged at any period before the end of the current Bengal, Fussily, or Willaity year, (as the estate or farm may be situated in Bengal, Behar, or Orissa,) together with any expence attending the attachment which may not have been defrayed from the collections, the attachment shall be immediately withdrawn, and a full and fair account rendered of all receipts and disbursements during the continuance of it. Moreover, all receipts from the estate or farm attached, after paying the establishment of officers required to collect the rents, as provided by for Section 6. of Regulation XIV. 1793, shall be carried to the credit of the defaulter, during the current year, in discharge of the arrear and interest due from him. The whole of the provisions in the above section are also to be considered in full force; except that the injunction to the *ameen* to collect according to the engagements subsisting between the defaulter and his under-tenants, is not to be considered applicable to engagements evidently collusive, which may have been contracted in expectation of the attachment, with a view to prevent the officers of Government from receiving the just rents during the continuance of it. In such cases the *ameen* is to collect according to the established rates and usages of the *pergunnah*, as he is directed to do in cases where no engagement exists between the defaulter and his under-tenants. It is further hereby declared, that after the promulgation of this regulation no anticipation of the rent will be admitted in cases of attachment. The landholders and farmers are forbidden to demand or receive, and the *ryots* and other under-tenants are forbidden to pay, any part of the rents receivable by the former and payable by the latter, before the stipulated or usual period of payment, according to the *kistbundy* or other engagement, or established local usage; and no person hereafter making anticipated payments, against this prohibition, or producing receipts for such, whether collusive or otherwise, shall be entitled to credit for the amount from the officers of Government who may attach the lands or farm; or from the landholder or farmer making the attachment, if it be made for arrears due from an under-tenant, under the provisions contained in this regulation. Nor shall credit be allowed for any payment made to a defaulter, after proclamation of the attachment of his estate or farm, until further proclamation be made that such attachment has been withdrawn; unless it can be clearly shewn that such proclamation, which is to be made as public as possible throughout the attached lands immediately on the attachment's taking place, was notwithstanding unknown to the party making payment to the defaulter at the time when such payment may have been made. Provided, however, that nothing herein contained shall be understood to exonerate the defaulter from crediting to his under-tenants, or otherwise accounting for, all sums received by him, whether in anticipation of the rents, or subsequent to the attachment of his estate or farm: the above restrictions having reference to the attachment only.

Account to be rendered in such cases.

Receipts from attached lands how to be credited.

Provisions in Section 6. of Regulation XIV. 1793, still in force, with a qualification to prevent collusion.

Further provision against anticipation of the rents.

Prohibition, under penalties, to landholders, farmers, and their tenants, to receive or pay the rents by anticipation.

Credit not to be allowed for any payment made to a defaulter after proclamation of the attachment.

Exception.

Proviso.

Fourth. In all cases of attachment, the village *putwarees* required to be appointed by the original rules for the decennial settlement, and by Section 62. of Regulation VIII. 1793, will of course be bound to furnish the collector and the *ameen*, or other officer deputed by him, with the accounts directed to be kept by them; and the collectors are hereby required to take immediate measures for ascertaining whether the *putwarees* have been universally appointed throughout their respective districts, as enjoined in the above section; as well as to cause their immediate appointment where they may be found wanting, by requiring instant compliance from the landholders with the regulation in question, under the penalty prescribed in the ninth clause of the section above mentioned; which, if necessary, they are to proceed to enforce in the mode therein provided. It is at the same time hereby explained, that it was not meant by the above regulation to require the proprietors of small estates, who may superintend their own lands, and be unable to afford the expence of a *putwaree*, to appoint officers of this description for the purposes mentioned in Section 62. of Regulation VIII. 1793; but in such cases the proprietors themselves are, when required, to furnish the accounts and information specified in the above section, in like manner as the *putwarees* are required to furnish the same; and under the same provisions. Defaulting proprietors and farmers of land whose estates or farms may be attached under this regulation, are also required to furnish the collectors with any accounts that may be required from them relative to the

Accounts to be furnished by *putwarees* in cases of attachment.

Collectors to take measures for general appointment of *putwarees* according to Regulation VIII. 1793.

Explanation of Section 62. Regulation VIII. 1793, with respect to small estates managed by the proprietors.

Proprietors and farmers of attached lands to furnish the collectors with any accounts required from them, in their possession.

jumma, collections, and outstanding balances of the current year, or of preceding years, which may be in their possession, as well as to cause their agents of every description, who may have been employed in the collections of the current year, to attend the collector, *ameen*, or other officer appointed by him. Any proprietor or farmer who, on receiving a written requisition from the collector under his official seal and signature to the above effect, shall refuse or neglect to comply therewith, shall be liable to such fine as the Board of Revenue, with the sanction of the Governor General in Council, may think proper to impose upon him on the collector's report of the circumstances of the case; and the Governor General in Council reserves to himself the power of ordering the imprisonment of any landholder, or other person who may persist in refusing to deliver up the accounts required from him in any particular instance.

And to cause their agents to attend the collector or officer appointed by him.

Penalty for non-compliance with this rule.

Fifth. If any arrear remain due from a proprietor of land at the close of the current year, the collector, immediately on the expiration thereof, is to report the amount to the Board of Revenue, and at the same time transmit a statement of his lands for sale, sufficient to make good the arrear and the interest due thereupon to the time of sale, to be disposed of according to the rules prescribed for public sales on account of arrears of revenue; and if the whole arrear cannot be recovered from a sale of the defaulter's lands, the deficiency will be recoverable from any other property he may possess, or by imprisonment of his person, as prescribed in Section 14. of Regulation III. 1794.

Arrears due from landholders at the close of the year, to be reported to the Board of Revenue.

With a statement of lands for sale, to make good the arrear and interest.

Arrears irrecoverable from a sale of the lands, to be realized from other property, or by imprisonment.

Sixth. If any arrear remain due from a farmer of land at the close of the current year, any land or property belonging to the defaulter, or his surety, is to be brought to public sale as soon as possible after the close of the year, according to the rules prescribed for such sales, and, as provided in Section 23. of Regulation XIV. 1793, it will be at the option of the Governor General in Council, either to cancel the lease of the defaulter from the commencement of the ensuing year, or to compel the defaulter, or his surety to perform the conditions of the lease until the term of it shall expire. If the Governor General in Council shall annul the lease, the defaulter, after making good the arrear due from him to Government, is to be at liberty to prosecute the dependant *talookdars*, under-farmers, or *ryots*, included in his farm for any arrears of rent due to him on account of the period during which his lease remained in force, as provided in the latter part of the section above mentioned, the preceding part of which is superseded by the rules now enacted. The provisions contained in Section 24. of Regulation XIV. 1793, respecting the attachment of the landed property of sureties for farmers of land, or of sureties for proprietors of land, (in cases where they may have given security,) are moreover still to be considered in full force (under the alterations made by this regulation with respect to the attachment and sale) when the persons for whom they are bound may be confined, or their lands or farms attached under this regulation; and the above rule is hereby extended to landed property of defaulting farmers, which can be attached: and which in such case is to be brought under attachment at the same time that their farms are attached under the present regulation, subject to the same provisions for withdrawing the attachment on payment of the arrear.

Arrears due from farmers at the close of the year to be recovered by a sale of their property and that of their sureties.

And the lease of the defaulter may be annulled.

Defaulter, after paying his arrear to Government, may sue for recovery of any rents due to him.

Section 24. of Regulation XIV. 1793, respecting attachment of lands of sureties still in force.

And extended to landed property of farmers.

Subject to provisions in this regulation.

Seventh. The discretion given to the collectors by Section 8. of Regulation XIV. 1793, to suspend the exercise of the powers vested in them by that regulation in cases of drought, inundation, or other calamity of season, or cause of failure not originating in the neglect, mismanagement, or misconduct of the defaulter, is to be considered equally applicable to similar cases under the present regulation; and the collector in such cases is to suspend the exercise of the powers now vested in him: but, as before required, he is immediately to report the circumstances to the Board of Revenue, with his reasons for not proceeding against the defaulter as directed, and is to be guided by their instructions. The Board of Revenue may suspend enforcement of the current *kists* as well as of the interest due thereupon, in such cases; but are not to grant any ultimate remission of the amount demandable on the permanent assessment without the sanction of the Governor General in Council, as already directed in Section 43. of Regulation II. 1793.

In what cases the collectors are to suspend exercise of the power hereby vested in them.

Report to be made to the Board of Revenue in such cases.

Board may suspend current *kists* and interest:

But not grant any remission on the permanent assessment without the sanction of Government.

Eighth. Nothing in this regulation is to be understood to preclude the Governor General in Council from ordering a sale of land or other property, for the recovery of arrears of revenue, within the current Bengal, Fussily, or Willaity year; in any particular case, wherein he may judge it proper to order such sale within the year.

Power reserved to the Governor General in Council to order the sale of land or other property within the year, in particular cases.

Provisions against disobedience or resistance in Regulation XIV. 1793, equally applicable under the present regulation.

XXIV. The provisions contained in Sections 15, 16, 17, 18, 19, 20, and 21, of Regulation XIV. 1793, for cases of disobedience or resistance to the processes against defaulting proprietors, or farmers and their sureties, authorized by that regulation, are declared equally applicable to cases of disobedience or resistance to the processes authorized by the preceding sections of this regulation. As, however, under Section 2. of Regulation V. 1798, the decrees of the provincial courts of appeal are declared final to the amount of five thousand sicca rupees, that amount, instead of one thousand rupees, (beyond which sum the judgments of the provincial courts were appealable to the Sudder Dewanny Adawlut when Regulation XIV. 1793, was enacted,) is to be considered the standard for appeals to the Sudder Dewanny Adawlut, instead of one thousand rupees, as specified in Sections 16, 19, and 21, of that regulation. The same principle is to be applied to all other parts of the regulations, in which an appeal was authorized to the court of Sudder Dewanny Adawlut, antecedent to the enactment of Regulation V. 1798, for the limitation of appeals to that court.

Limitation of appeals to the Sudder Dewanny Adawlut under Regulation V. 1798.

Above limitation applicable to all cases of appeal to the Sudder Dewanny Adawlut.

Further powers vested in the collectors in cases of attachment or *khas* collection.

XXV. When lands are attached by a collector, or other officer of Government under the present regulation, or become subject to a *khas* collection on the part of Government under any regulation authorizing the same, or by any means come under the immediate management of the officers of Government, so that the rents are collected by them from the *ryots*, *jotedars*, dependant *talookdars*, under-farmers, or other descriptions of under-tenants, the collector, in addition to the power vested in him, and in the officers employed under him, by Section 19. and the preceding sections of this regulation, is authorized, without any previous application to the *dewanny adawlut*, to proceed against defaulting under-renters of whatever denomination, from whom arrears of rent may be due, and their sureties, in the same manner as he is authorized by Section 23. of this regulation, to proceed against *sudder* farmers paying revenue immediately to Government, and their sureties, if he shall consider this mode of procedure more likely to be effectual in causing payment of the arrear due from them: and in such cases he is authorized to issue the process directed in Section 5. of Regulation XIV. 1793, on the report of the *tehsildar*, or other officer employed to make the collections, as in cases of arrears due from proprietors or *sudder* farmers whose revenue may be made payable to a *tehsildar*; or the *tehsildar*, or other collecting officer, may, in particular cases, where he may have reason to apprehend the elopement of the defaulter or his surety, himself arrest and convey him to the collector, under the provisions contained in the second clause of Section 23. of this regulation. In all such cases, however, the collector, before he delivers over the parties to the *dewanny adawlut*, is to satisfy himself that the arrear stated by the *tehsildar* or other *mofussil* officer, is justly due, and he is at liberty to keep the alleged defaulter under *mofussil peons* during the enquiry that may be necessary for this purpose, although the period should exceed the ten days limited by the above section; but all such inquiries are to be brought to a conclusion with the least possible delay.

May proceed against defaulting under-renters in such cases and their sureties, as he is authorized to proceed against *sudder* farmers and their sureties.

Provision for ascertainment of the arrears due from persons arrested under this rule by *tehsildars* or other *mofussil* officers.

XXVI. The provisions in the preceding section are meant to include the estates of disqualified landholders under the management of *serberahkars* appointed by the court of wards under Section 8. of Regulation X. 1793, which estates being exonerated from responsibility for the revenue assessed upon them beyond what may be realized from the rents collected by the officers entrusted with the management of them, and experience having shewn that the managers elected under the above section, (which directs a preference to the legal heirs or other near relations of the proprietors, or in the event of their being no heirs or relations of this description, to creditable servants of the family, and allows female proprietors, not minors or otherwise disqualified, to recommend managers for their estates,) are in general wholly disregardful of the public interest in the realization of the revenue assessed upon the estates committed to them, the above section is hereby rescinded, and the managers of the estates of disqualified landholders, which may be exonerated from responsibility for the public revenue assessed upon them, are to be hereafter chosen by the collector, and approved by the Board of Revenue, without any regard to their connection with the proprietors, or to the will of the disqualified proprietors themselves in the election of such managers; who are to be considered in every respect the officers of Government, acting under the collectors; and the latter will be held responsible for the nomination of proper persons, both as to character and capacity, for the trust. The collectors are further directed to take into immediate consideration the conduct of the present *serberahkars* of the estates of disqualified landholders during the

Preceding section meant to include estates of disqualified landholders under the management of *serberahkars* appointed by the court of wards.

Section 8. Regulation X. 1793, rescinded, and new rule enacted for the election of *serberahkars* by the collectors.

Collectors to examine the conduct of the present *ser-*

period they have acted as managers respectively; and if from a deficiency in the collections, or misappropriation of their receipts, or other cause, they shall see reason to be dissatisfied with the conduct of any manager, they are to report the same to the court of wards, and propose the removal of such manager, with their recommendation of a person better qualified to succeed him.

berakkars, and propose the removal of any with whom they may be dissatisfied.

XXVII. The restrictions contained in Section 46. of Regulation XIV. 1793, against the confinement of joint proprietors of estates committed to the charge of managers appointed by the Board of Revenue, as well as against the confinement of [illegible]ed landholders, and female landholders of every description, are to be considered in full force, under the present regulation; as are all the rules in Regulation XIV. 1793, with respect to the personal responsibility of the collectors and other public officers, for the due exercise of the powers vested in them, which have not been expressly rescinded or modified by any other regulation.

Restrictions in Regulation XIV. 1793, against confinement of certain descriptions of landholders, still in force.

As well as all rules, not rescinded, for the responsibility of the collectors and other public officers.

XXVIII. When a sale of lands may become necessary for the recovery of an arrear of the public revenue under the present regulation, it is to be made according to the rules already in force under Sections 26, 27, and 28, of Regulation XIV. 1793, Regulation V. 1796, and Regulation XII. 1796, with the following further rules and provisions; and as the collectors will hereafter, in most instances, have the lands under their immediate management for some time before the sale, it is expected that they will be prepared to transmit the most accurate statements for the allotment of the public assessment on the land sold, in conformity to Section 10. of Regulation I. 1793; the rules contained in which are to be invariably and strictly adhered to in every instance of an adjustment of the public revenue becoming necessary upon lands disposed of by public sale, as well as in the cases of private transfer or division referred to in the regulation in question.*

Under what rules sales of land for arrears of revenue are to be hereafter made.

Section 10. of Regulation I. 1793, to be strictly adhered to in all adjustments of the public revenue upon lands sold.

XXIX. *First.* By the fourth clause of Section 62, Regulation VIII. 1793, the *putwarees* in every estate are required to produce all accounts relating to the lands, produce, collections, and charges, of the village or villages to which they may be appointed respectively; with every explanation that may be required respecting them, for the allotment of the public revenue, agreeably to the principles laid down in Regulation I. 1793; and by the sixth and eighth clauses of the section above mentioned, *putwarees* may be required to swear to the truth of the accounts produced by them when necessary, and are declared liable to prosecution for perjury, if the accounts so sworn to shall afterwards appear to have been fabricated or altered, or not to be the true accounts. Proprietors and farmers of estates are also declared liable to a fine, if it be proved that the accounts were fabricated, altered, or changed by their orders, or with their knowledge or connivance. A due observance of the above provisions therefore must, if the rules regarding *putwarees* be carried fully into effect, furnish the officers of Government with the means of ascertaining the actual produce of any portion of lands proposed to be sold; and as Section 10. of Regulation XLV. 1793, containing rules for the disposal of land by public sale in pursuance of decrees of the courts of justice, (whereby proprietors and farmers of land ordered for sale, and their agents, are required to attend the collectors with any accounts of the *jumma* and collections of the lands ordered to be sold for the purpose of adjusting the assessment, under a penalty of being fined by the Board of Revenue for non-compliance,) does not appear to have been expressly extended to cases of sales of land for arrears of revenue, the same is hereby declared to extend to such cases: and the landholders and farmers are declared equally responsible for the fidelity and accuracy of such accounts, as for the accounts delivered by the *putwarees* in conformity to Section 62. of Regulation VIII. 1793; under the same penalty for any fabrication or alteration of them by their orders, or with their knowledge or connivance.

Recapitulation of the fourth, sixth, and eighth clauses of Section 62, Regulation VIII. 1793.

Section 10. of Regulation XLV. 1793, extended to sales of land for arrears of revenue.

Landholders and farmers responsible for accounts delivered by them or their agents.

Second†. *For the information of purchasers at the public sales, whether on account of arrears of the public revenue, or in satisfaction of decrees of the courts of justice, a detailed statement, specifying the* mohauls *sold, (to be stated as clearly and accurately as possible,) their rent produce in the past year, and the allotment of the* sudder jumma *thereto, in conformity to Section 10. of Regulation I. 1793, shall be exhibited at the time of sale, and an authenticated copy of it be delivered to the purchaser; with this express notification, that Government do not guarantee to the purchaser any thing beyond the right of*

Statement to be exhibited to bidders at the public sales.

And copy to be delivered to purchasers.

* This section is rescinded by clause first, Section 2, Regulation XI. 1822.

† Clause 2. to 5. of this Section are rescinded by clause first, Section 2, Regulation XI. 1822.

the

With notification herein prescribed.

the former possessor in the land sold, but that if the purchaser, within one year from the date of his purchase, shall discover and establish to the satisfaction of the Governor General in Council, through the collector of the zillah, and the Board of Revenue, that the accounts upon which the sudder jumma (or public assessment) may have been adjusted were false or grossly erroneous, so as to render the assessment on the land sold much higher than it ought to have been under the rules prescribed in Section 10. of Regulation I. 1793, the Governor General in Council will cause a new allotment of the assessment on the lands sold, and on the remainder of the estate from which such lands may have been separated, according to the prescribed rules. The collectors are further to allow all purchasers to have free access to the accounts on which the assessment upon the lands sold to them may have been adjusted; and on receiving any claims, under this clause, within the period therein limited, are to investigate the same in the presence of the landholder or farmer who may have furnished the accounts, or his authorized agent; and report the result, with their opinion, to the Board of Revenue; who, after calling for any further information they may judge necessary, are to decide upon the claim of the purchaser, if they shall not consider him entitled to any alteration in the assessment; leaving him to appeal, if dissatisfied, to the Governor General in Council; or, if they shall be of opinion that he is entitled to an alteration in the assessment of the lands purchased by him, are to report the same to the Governor General in Council for his final determination. The above provision, which is made for the security and encouragement of purchasers at the public sales, as well as to preserve a just assessment of the public revenue on land sold, is not to be understood to authorize in any case, (except to rectify an evident and material mistake, which the purchaser may consent to have rectified rather than relinquish his purchase and receive back the amount paid by him with interest,) any addition whatever to the assessment declared at the time of sale on the portion of lands sold; nor is it to be applied retrospectively to any public sales which may have taken place before the promulgation of this regulation, unless in any particular instance, from manifest fraud or error in the accounts upon which the sale may have been made, the Governor General in Council should, on consideration of the circumstances of the case, think it equitable and proper to order otherwise; and the Governor General in Council hereby notifies, that he will not admit any claim whatever founded on past sales, unless the same shall have been already preferred; or shall be preferred to him, or the Board of Revenue, within one year from this date.

Collectors to allow purchasers access to accounts on which the assessment may have been adjusted.

And how to proceed on receiving claims thereupon under this regulation.

Board of Revenue how to proceed on the case being reported to them.

Governor General in Council to determine on any alterations in the assessment.

Above provision not meant to authorize any addition to the assessment declared at the time of sale.

Exception.

Nor is this rule to be applied retrospectively.

Exception.

Limitation to all claims respecting past sales.

Third. All purchases of land at the public sales shall be made in the names of the persons actually purchasing the same, without any fictitious substitution, or the substitution of the name of any other person whatever. Any evasion of this rule will render the lands purchased in opposition to it liable to confiscation to Government, or to such other penalty as the Governor General in Council, on consideration of the circumstances of the case, may think proper to impose; but it is not intended to prevent any person duly authorized from making a purchase of land at the public sales for another; so that the real purchaser be declared at the time of sale; and his name registered accordingly.

All purchases of land at the public sales to be made in the names of the actual purchasers.

Penalty for any evasion of this rule.

Explanation.

Fourth. All defaulting landholders, farmers, and sureties, whose lands may be sold by public sale for discharge of arrears of revenue, are positively restricted from becoming the purchasers, directly or indirectly, of their own lands so disposed of. If they have the means of making such purchases, they must have the means of preventing the sale by discharging the arrear due from them; and any lands which may be found to have been purchased by them after the promulgation of this regulation, in opposition to the above prohibition, are declared liable to immediate forfeiture to Government. The collectors are to cause due enquiry to be made whenever they may suspect such illicit purchases, and if they shall consider the same established, are to report the circumstances of the case, with the proceedings held by them, to the Board of Revenue, to be submitted by them, with their opinion, for the determination of the Governor General in Council, whose decision upon the case is to be considered final: unless the party dissatisfied think proper to prosecute his claim in the courts of justice; who are in that case to proceed as directed in other suits, wherein Government may be a party under Section 46. of Regulation XIV. 1793.

Defaulters restricted from purchasing their own lands at the public sales.

Lands hereafter purchased against this prohibition, forfeited to Government.

Collectors how to proceed with respect to such illicit purchases.

To be finally determined upon by the Governor General in Council.

Subject to judicial process under Section 46, Regulation XIV. 1793.

Fifth. The collectors are to give possession to purchasers at the public sales of lands within their respective zillahs, by publishing at the head cutcherree of the pergunnah or other

In what manner the collectors are to give possession to purchasers at the public sales.

other mohaul *sold, and at the* cutcherree *of the* dewanny adawlut, *in the jurisdiction of which such* mohaul *may be situated, a statement of the land sold (as exhibited at the time of sale), the name of the purchaser, the date of his purchase, and his succession to all the rights of the former possessor. In the event of any further measures being necessary to put the purchaser in possession, he is to apply to the judge of the* zillah *or city, within which the land may be situated, and on inspection of the proclamation above mentioned, the judge is to put the purchaser in possession of the property sold to him, as therein specified, by the usual process for giving possession of all other property under decrees of the courts of justice. If the late incumbent shall dispute the right of the purchaser to any part of the property so delivered over to the purchaser, as not being included in the purchase, he (the former incumbent) is at liberty to institute a regular suit in the* dewanny adawlut *for the recovery thereof, with costs and damages; and in like manner, if the purchaser think himself entitled to any property which the judge may not deliver over to him, as not appearing to have been included in the sale, he is at liberty to sue the late incumbent for the same in the* dewanny adawlut; *and, on proof of his title, shall recover such property with all costs and damages. If any other person not being the late incumbent or his representative, shall claim any part of the property sold, and delivered over to the purchaser, he is at liberty to institute a suit against the former incumbent and purchaser jointly for the recovery thereof; and, on proof of his right, shall receive back the same, with costs and damages from the late incumbent; who shall further, in such case, if the property adjudged were clearly included in the sale, be compelled by the* dewanny adawlut *to make reparation to the purchaser adequate to the loss sustained by him; either by a refund of a proportion of the purchase money, or otherwise, as may appear just and equitable. Provided, however, that nothing in this rule is to be considered applicable to the rights of under-tenants of whatever description in the land sold, whose rents may have been payable to the late incumbent. As the purchaser is entitled only, by the terms of his purchase, to the rights of the late incumbent, (except in the cases provided for by Regulation XLIV. 1793;) whatever disputes may arise between him and the under-tenants must be settled between them, or by the usual course of law, in like manner as they would have been between the under-tenants and late incumbent if the sale had not taken place. But in cases of public sales for arrears of the public revenue, the purchaser may, without any previous application to the* adawlut, *eject any of the under-renters whose leases are annulled by Section 5. of Regulation XLIV. 1793; and who may decline the renewal of them on such terms as the purchaser by the above regulation, and Section 7. of Regulation IV. 1794, is authorized to require from them; though it is hereby declared, in explanation of Section 5, Regulation XLIV. 1794, that it is not meant to annul the leases, or in any wise affect the tenures of the* istimrardars, *(or tenants at a fixed rent,) described in Section 19. of Regulation VIII. 1793, who by Section 49. of that regulation, were exempted from any increase of their fixed* jumma *at the formation of the decennial settlement, provided they had held their tenures at a fixed rent for more than twelve years antecedent to that period. On the contrary, such under-tenants, (being declared in Section 19. of Regulation VIII. 1793, a species of* pottah talookdars,) *were meant to be included in Section 7. of Regulation XLIV. 1793, which exempts from any increase of rent, under that regulation, the lands of dependant* talookdars *who were exempted from any increase of assessment at the formation of the decennial settlement; and declares the revenue payable by such* talookdars *fixed for ever. Provided further, that whenever the land may have been sold to discharge an arrear of the public assessment upon such land, or upon the estate of which such land formed a part, no private claim thereto on the plea of sale, gift, or other transfer; or of pledge, mortgage, or other assignment; or any other private claim whatever, is to be admitted by any court of justice in bar of the prior and indefeasible right of Government, to hold the whole of the lands answerable in the first instance for the public revenue assessed thereupon, as immemorially known and acknowledged, and frequently declared in the regulations and otherwise.*

Further measures, if necessary, to be taken by the judge of the dewanny adawlut.

Late incumbent how to recover any property delivered over to the purchaser, but not included in his purchase.

And purchaser how to recover any property included in the sale, but not delivered over to him.

Any other person, not being the late incumbent or his representative, claiming a right to property disposed at the public sales, how to recover the same.

Exception of rights of under-tenants.

Any disputes respecting which to be settled between the under-tenants and purchaser, as with the late incumbent, if the sale had not taken place.

But in cases of sales for arrears of revenue, the purchaser may avail himself of the rights vested in him by Section 5. of Regulation XLIV. 1793, without application to the adawlut.

Explanation of above section.

Not meant to affect tenures of istimrardars *who by Sections 19. and 49. of Regulation VIII. 1793, were exempted from any increase of their fixed rent at the formation of the decennial settlement.*

Such under-tenants included in Section 7. of Regulation XLIV. 1793.

Further provision against any private claim upon lands sold to discharge the revenue assessed thereupon, or upon the estate of which it forms a part.

Prior and indefeasible right of Government in such cases.

XXX. The Board of Revenue, who are hereafter to conduct the sales of land, in the mode prescribed by the regulations, without any reference to the Governor General in Council, except in cases wherein they may require his instructions; are to consider themselves responsible for the careful execution of this duty; and are required to be particularly attentive

Board of Revenue to conduct sales of land under the regulations.

Their responsibility, and objects to be attended to by them.

Collectors to propose, and Board of Revenue to approve, establishments of officers to be employed during the attachment of lands.

Objects to be attended to in proposing and approving such establishments.

Collectors also to nominate, and Board of Revenue to approve, the principal officers to be employed in the management of lands under attachment with their sureties.

Responsibility of collectors in all such appointments; as well as in all cases of a *khas* collection.

Board of Revenue to be guided by any special orders they may receive from the Governor General in Council:

To whom they are to apply in all cases unprovided for by the regulations.

Or may propose a new regulation in the form prescribed by Regulation XLI. 1793.

Collectors also authorized to propose new regulations in the prescribed form to the Board of Revenue:

Who are to forward the same, with their sentiments, to the Governor General in Council.

tive to the proper selection of lands for sale by the collectors, as well as to the due allotment of the public assessment thereupon, in conformity to the regulations. They are also authorized to fix the establishments of native officers which may be necessary during the attachment of lands for sale, the expence of which is to be defrayed from the produce of the lands, as provided in Section 23; and statements of all such establishments are to be submitted by the collectors for their approval as soon as possible after the attachment may take place. In preparing such statements, the collectors are to be careful not to propose a greater number of officers, or greater allowances to the officers employed, than may be indispensably necessary; and the Board of Revenue, in approving such establishments, are to give particular attention that this principle is duly observed. The collectors are also to nominate for the approbation of the Board of Revenue, the *ameens* and other principal native officers, to be employed in the management of lands under attachment, with the sureties to be taken for their appearance under Section 15. of Regulation III. 1794; and will be held responsible for the utmost regard to the qualifications and character of the persons so appointed by them, as well as in all cases wherein native officers may be appointed by them to the charge of a *khas* collection, whether under this or any other regulation.

XXXI. In the execution of the duties vested in the Board of Revenue by this regulation, as in all other cases, they are to be guided by any special orders or instructions which they may at any time receive from the Governor General in Council, (or Vice-President in Council,) to whom they are to apply in all cases which they may consider unprovided for by the regulations; or, if it appear to them, in any case, that a new regulation would be advisable, to be printed and published in the form prescribed by Regulation XLI. 1793, they are to prepare such regulation in the form so prescribed, with a letter stating at large the grounds on which it may be proposed; and copies of any documents therein referred to, which may not have been already transmitted to the Governor General in Council. The collectors are also authorized to propose to the Board of Revenue, in the prescribed form, any regulations regarding matters within their cognizance, which their local knowledge and experience may suggest to them as advisable to be adopted; and provided they are drawn out according to the form directed by Regulation XLI. 1793, the Board of Revenue are to forward the same to the Governor General in Council, whether they approve the regulation proposed or otherwise. If they disapprove it altogether, they are to state the reasons of their disapproval in a letter to the Governor General in Council, to accompany the regulation proposed by the collector, or a copy of it; and copies of any letter and documents received from him in explanation of it. If they disapprove it in part only, and are of opinion that the remainder should be enacted into a regulation, with any amendments they may think advisable; they are to state their objections to the part disapproved; and at the same time to submit to the Governor General in Council, a draught of the regulation they judge expedient, with any requisite explanation of the amendments proposed by them.

A. D. 1800. REGULATION V.

A REGULATION *for extending to the Province of Benares, the Rules contained in Regulation VII. 1799, for enabling Proprietors and Farmers of Land to realize their Rents with greater Punctuality; as well as such other Parts of the above Regulation as are applicable to the Province of Benares.*—PASSED *by the Governor General in Council, on the 27th March* 1800; *corresponding with the* 16*th Chyte* 1206 *Bengal era; the* 16*th Chyte* 1207 *Fusily; the* 16*th Chyte* 1207 *Willaity; the* 16*th Chyte* 1857 *Sumbut; and the* 1*st Zekaad* 1214 *Higeree.*

Preamble.

THE rules contained in Regulation VII 1799, for enabling proprietors and farmers of land to realize their rents with punctuality in the provinces of Bengal, Behar, and Orissa, being equally applicable to the province of Benares; as well as the provisions in that regulation respecting public sales of land for arrears of revenue, when such sales may be ordered by the Governor General in Council under Sections 17, 18, and 19, Regulation VI. 1795: for the extension of the above rules and provisions, with such other parts of Regulation VII. 1799, as are consistent with the rules prescribed in Regulation VI. 1795, for collecting the land revenue in the province of Benares, the Governor General in Council has enacted the following regulation, to be in force from the date of its promulgation in the province abovementioned.

Landholders and farmers empowered by Section 2, Regulation XLV. 1795, to distrain arrears of rent, authorized to delegate this power to their agents.

II. The *talookdars*, *zemindars*, and other landholders and farmers of land, empowered by Section 2, Regulation XLV. 1795, to distrain the crops, cattle, and other personal property of their under-tenants for arrears of rent, are authorized to delegate to their *naibs*, *gomashtahs*, and other agents, employed in the collection of their rents, the power of distraining in their behalf in the mode prescribed by the regulations, under the responsibility declared in Section 29, Regulation XLV 1795, and the *naibs*, *gomashtahs*, and other agents, to whom such power may be delegated by their principals, are authorized to proceed for the recovery of arrears of rent due to their constituents in the same manner as the latter are authorized to proceed, subject to their own responsibility, in addition to that of their principals, for any wilful deviation from the regulations; but it is hereby declared, that neither the landholders and farmers themselves, nor their agents, are to be made liable to the penalties prescribed for a deviation from any part of Regulation XLV. 1795, or of any other regulation relative to the distraining for land-rents, unless such deviation shall clearly appear to have been wilful and intentional, or to have proceeded from gross neglect or inattention to the rules prescribed for their guidance. Where no such wilful deviation or gross neglect shall appear, satisfaction to the party aggrieved for the actual damage sustained by him from the prescribed process not having been strictly adhered to, shall alone be adjudged against the distrainer, nor shall any judgment be given for such damages, if the distrainer can shew that he tendered sufficient indemnification to the party injured, as soon as the irregularity in his proceedings was discovered, or at any time before the action for damages was brought against him, and that such tender was refused.

Agents to whom such power may be delegated authorized to levy distress for arrears of rent due to their constituents,

Subject to their own responsibility, in addition to that of their principals

Neither landholders, farmers or their agents liable to prescribed penalties, except in cases of wilful deviation from, or gross neglect of, the regular process for distraining.

Where no wilful deviation or gross neglect may appear, satisfaction for actual damage only to be adjudged.

And not this, if distrainer can shew that he tendered sufficient indemnification.

III. Such part of Section 5, Regulation XLV. 1795, as enacts that "under-farmers, *ryots*, and dependant *talookdars*, shall not be considered to have defaulted until the arrears have

Part of Section 5, Regulation XLV. 1795, rescinded.

Under-tenants to be considered defaulters for any arrears of rent withheld beyond the day on which they become payable.

have been ineffectually demanded from them, and also from their surety, if they shall have given security, and the surety shall be forthcoming," is hereby rescinded; and under-tenants of every description are to be considered defaulters for any arrears of rent withheld beyond the day on which the same may have become payable according to their *kistbundies*, or other engagements, or where there may be no written specification of the exact term of payment, beyond the period when the rent demandable from them may be payable according to established local usage. For all such arrears which may not be paid on demand, defaulters are declared liable to immediate distress, whether the amount shall have been demanded from their sureties or otherwise. In instances wherein the distrainer may proceed to levy distress from an under-tenant, who has given security, without having previously demanded the arrear from the surety, it will be incumbent on the tenant to give notice of the distress to his own surety, so as to enable him to discharge the arrear before the sale of the property attached; or the distrainer, if he think proper, may give notice to the surety, and require him to make payment of the arrear. The distrainer may also at his option distrain in the prescribed mode, either the property of the defaulter or his surety, or the property of both, so that the whole distress be not excessive in proportion to the arrear; but no distress shall be levied on the property of the surety, until the arrear shall have been ineffectually demanded from the defaulter, unless the latter shall have absconded, or be otherwise not forthcoming, in which case, and in the event of surety's not discharging the amount due on demand, distress may be levied from his property for the recovery of it, in like manner as if the defaulter had been present, and served with the demand in the first instance.

For such arrears not paid on demand, defaulters liable to distress.

Tenant to give notice of distress to his surety.

Or distrainer may give notice to the surety, and require payment from him.

Distrainer may also at his option distrain property of surety.

Or the property of both the defaulter and his surety; so that the distress be not excessive.

Provided the arrear be first demanded from the defaulter, if forthcoming.

IV. The rule for giving a notice of fifteen days for the sale of attached property directed in Section 8, Regulation XLV. 1795, and for allowing a period of fifteen days from the time of attachment for the sale of such property, by Section 20. of the above regulation, is hereby rescinded, and the notice to the defaulter, directed to accompany the inventory of the attached property to be delivered to him, shall inform him only of the arrear due, and the intention of the distrainer to bring the attached property to immediate public sale for the discharge of it, unless the amount and expences of attachment be previously paid. If the defaulter, on receiving this notice, shall neglect to pay the amount due from him, or to give such assurance of early payment as may be satisfactory to the distrainer; or if the defaulter shall have absconded or be otherwise absent, so that the notice cannot be served on him, the distrainer is to transmit an inventory of such part of the attached property as can be brought to immediate sale, to the nearest *cauzy* or other public officer empowered to sell distrained property, with a written request, that he will cause the same to be publicly sold for the discharge of the arrear due; the amount of which is also to be specified in the application, together with the place where the property may be in attachment, and (if it be the intention of the distrainer to remove it, under the discretion vested in him by Section 10, Regulation XLV. 1795,) the place to which it is intended to remove it. The *cauzy* or other authorized officer, on receipt of such application, is to proceed as directed in Section 20, Regulation XLV. 1795, under the following further provisions, viz. instead of fixing the day of sale on the fifteenth day after the attachment, he shall fix as early a day for the sale as may be compatible with a due observance of the other directions in that section for the appraisement of the property, and the publication of the intended sale of it, which is to be made by beat of drum on one market day at the least, before the market day on which the sale may take place, as well as on the morning of the day of sale; and sale is in no instance to take place before the expiration of five complete days after the attachment, exclusive of the day on which the attachment may have been made. The same principle is to be observed with respect to the sale of ungathered products, after the distrainer shall have gathered and stored them as required by Section 11, Regulation XLV. 1795, and which are not to be sold until publication shall have been made as above directed.

Notice of fifteen days directed in Section 8, Regulation XLV. 1795, and period of fifteen days fixed by Section 20. of that regulation, for sale of attached property, rescinded. Future notice to be given to defaulters.

Inventory and particulars to be transmitted by distrainer to *cauzy* or other officer empowered to sell distrained property.

Cauzy or other officer how to proceed, on receiving applications for the sale of distrained property.

No sale to take place before the expiration of five complete days after the attachment.

Or after storing products ungathered at the time of attachment.

V. As a compensation to the *cauzies* and other public officers empowered to dispose of property under distraint, both for their personal trouble, and for the expence they may incur in publishing and making such sales, as well as in causing the attached property to be appraised, as directed by Section 20, Regulation XLV. 1795, they shall draw a commission of one anna in the rupee on the amount sales of the property sold by them, to be deducted from the proceeds, and charged to the account of the defaulter, with the other expences attending the

Commission to be drawn by officers authorized to sell distrained property if the sale take place, but not otherwise.

attachment. But no such commission shall be drawn, nor any charge made to the defaulter beyond the expences actually and necessarily incurred, in the event of the sale being stopped by his discharge of the arrear due from him or otherwise. It is expected that this allowance to the officers entrusted with the sale of distrained property, will insure the faithful discharge of the trust reposed in them; and any collusion with the defaulter, distrainer, or purchaser, or other misconduct in the execution of the duty committed to them, will render them liable to immediate dismission from their offices in the mode provided by the regulations, besides subjecting them to the other penalties therein specified, and full damages to the party injured.

Faithful discharge of trust expected in consequence of such allowance.

Punishment of collusion or other misconduct.

VI. By Section 27, Regulation XLV. 1795, the native commissioners appointed to determine suits not exceeding fifty rupees under Regulations XL. 1793, and XXXI. 1795, are authorized and required to dispose of distrained property under the prescribed rules, on application made to them; and the *zillah* judges are empowered to appoint as many other persons as may be requisite for facilitating the sale of property liable to distraint for arrears of rent. It is therefore no longer necessary to vest the *cauzies* generally with the powers delegated to them by Regulation XLV. 1795; and it is now declared, that such *cauzies* only shall be authorized to sell distrained property, under the provisions contained in Regulation XLV. 1795, and the present regulation, as may have been appointed commissioners for the trial of civil suits under Regulation XXXI. 1795, or commissioners for the sale of distrained property under Section 27, Regulation XLV. 1795. It is expected that the *zillah* judges will pay due regard to the character and qualifications of all persons whom they may appoint under this regulation; and they are to furnish the commissioners so appointed by them with commissions *(sunnuds)* under their official seals and signatures in the following form:—

Recapitulation of Section 27, Regulation XLV. 1795.

Cauzies appointed under above section, or under Regulation XXXI. 1795, authorized to sell distrained property; but no others.

Zillah judges to regard the character and qualifications of persons appointed by them to sell distrained property.

Form of commission given to the persons so appointed.

"I A. B. judge of the *dewanny adawlut* of the *zillah* of————in virtue of the powers vested in me by Regulation XLV. 1795, appoint you————commissioner for the sale of property distrained on account of arrears of rent. In pursuance of the above regulation, and of Regulation————1800; you are to reside at————in *pergunnah*————; and are to exercise the authority vested in you by the above regulations, or by any other regulations that may be hereafter transmitted to you for your guidance, in strict conformity thereto, and are to keep a regular and complete record of your proceedings to be produced when called for."

VII. The commissioners for the trial of the civil suits appointed under Regulation XXXI. 1795, and the *tehsildars* appointed by the collector for the collection of the public revenue, who are authorized to sell distrained property by Section 27, Regulation XLV. 1795, are to be considered commissioners for the sale of distrained property by virtue of their offices of commissioners for civil suits, and *tehsildars* so long as they may continue to hold such offices, and any separate commissions to them for this purpose will not be requisite; but all commissioners appointed to sell distrained property, are at all times to furnish any reports or other information that may be required from them by the *zillah* judges; and no person receiving a commission under Section 6. of this regulation, is to be deprived of it, whilst he may reside on the spot, without sufficient reason assigned to the satisfaction of the court of Sudder Dewanny Adawlut, to whom the *zillah* judges are to report all appointments made, and commissions issued by them under this regulation, in the same manner, and under the same rules, as have been prescribed for the nomination and removal of commissioners for the trial of civil suits by Regulation XL. 1793.

Commissioners for civil suits under Regulation XXXI. 1795, and *tehsildars* appointed by the collectors, to be considered commissioners for the sale of distrained property by virtue of their offices.

But all commissioners for the sale of distrained property are to furnish any reports or information required from them by the *zillah* judges. And no person receiving a commission under Section 6. of this regulation to be deprived of it whilst resident on the spot, without the sanction of the Sudder Dewanny Adawlut. Rules for the appointment and removal of commissioners for civil suits under Regulation XL. 1793, declared applicable to the commissioners above referred to.

VIII. The judge of the city of Benares, is authorized to appoint any number of commissioners that may be requisite for the sale of distrained property within his jurisdiction, in like manner and form as has been prescribed to the *zillah* judges.

Judge of the city of Benares, authorized to appoint commissioners for the sale of distrained property within his jurisdiction.

IX. In addition to the penalties provided by Section 17, Regulation XLV. 1795, it is hereby declared, that if any under-tenant, of whatever description, shall resist or cause to be resisted the attachment of his property for arrears of rent in the mode prescribed by the regulations, so as to prevent the attachment from taking place, or shall forcibly or clandestinely take away such property after it shall have been attached; such offender shall, on proof before the *dewanny adawlut*, be made liable to damages to the distrainer, equal to twice the amount of the property rescued from attachment; and the property so taken away may be reattached by the distrainer, wherever it may be found. The offender and all persons

Further penalties for resistance to attachments for arrears of rent as prescribed by the regulations.

Offenders liable to damages equal to twice the

amount of the property rescued from attachment.

And property taken away may be rescued wherever found. Offenders and all persons concerned with him also liable to be apprehended and prosecuted for any breach of the peace.

Police officers how to act on information given in such cases.

Claims to property distrained and sold, to be preferred in the *dewanny adawlut*.

Judgment for value of such property, with costs and damages, to be given against the distrainer.

But no claim to crops attached in possession of defaulter to bar the prior claim of ground rent.

persons concerned with him in resisting the attachment, are moreover declared liable, to be apprehended and prosecuted before the criminal courts for any breach of the peace committed by him in such resistance to the attachment, and the police officers, on information thereof, are immediately to repair to the spot, and to take all proper measures under the regulations, as well to apprehend and to send to the magistrate, any persons who may appear to have broken the peace, as to support distrainers in the due exercise of the legal powers vested in them. If any person, not being the defaulter or responsible for him, claim as his right the property distrained, and the distrainer shall notwithstanding cause the same to be sold, the claimant, on proof of his right in the *dewanny adawlut*, and in the event of the distrainer being unable to prove that he was responsible for the arrear, on account of which the property may have been sold, shall recover from the distrainer the full value of such property with all costs and damages, according to the circumstances of the case. But no claim to crops upon the ground, or to any gathered product of the ground attached in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall bar the prior claim of rent, due for the ground upon which such crop or product may have been grown, it being the undoubted right of the owner of the land or his representative, to consider the produce of it mortgaged to him, for the rent of the land in the first instance, and in default of his rent being paid as engaged for (or determinable by local rates and usage where there may be no specific engagement) to distrain and sell such part of the product as may be necessary to make good the arrear due to him.

Modification of restrictions in Section 19, Regulation XLV. 1795.

Distrainer in presence of a police officer may force open the outer door of a dwelling house, in which he has reason to suppose the defaulter's property to be lodged.

And with certain precautions may enter *zenana* apartments to attach property.

But such property to be immediately removed; and the apartments left free to occupants.—Penalty for forcing open the door of a dwelling house or entering the apartments of women considered private in any other mode than is herein prescribed.

X. The restrictions in Section 19, Regulation XLV. 1795, which prohibit distrainers from forcing open the outer door of any dwelling house, and from entering the *zenana* or apartments of women, having been found liable to abuse, such restrictions are hereby modified as follows:—When a distrainer may have reason to suppose, that the property of a defaulter is lodged within a dwelling house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, he is at liberty to represent the same to the *tehsildar*, within whose jurisdiction the house may be situated; and on such representation, the *tehsildar* is to send a police officer to the spot, in the presence of whom, the distrainer is authorized to force open the outer door of the dwelling house in which he may have reason to suppose the defaulter's property to have been lodged, in like manner as he is already authorized to break open the door of any room within a dwelling house, except the *zenana*. He may also in the presence of the police officer, after due notice given for the removal of any women within the *zenana*, and after furnishing means for their removal in a suitable manner, if they be women of rank, who according to the custom of the country cannot appear in public, enter the *zenana* apartments for the purpose of attaching any of the defaulter's property deposited therein; but such property, if found, shall be immediately removed from such apartments, after which they are to be left free to the former occupants; and nothing in this regulation is to be understood to authorize any distrainer or his agent, to force open the door of a dwelling house, or to enter the apartments of women, which by the usage of the country are considered private, in any other mode than that herein prescribed; a wilful deviation from which, will subject the offender to heavy damages, besides forfeiture of the arrear of rent, on account of which the distress may be levied.

Tehsildars on application to depute an officer to be present at attachment for arrears of rent.

Officers so deputed, to use every means to prevent resistance or other breach of the peace, and to observe the conduct of distrainers.

XI. In all cases wherein persons authorized to distrain property for arrears of rent, may apply to the *tehsildar* of the jurisdiction to depute a police officer to be present at the time of making the attachment, with a view to prevent resistance or other breach of the peace, the *tehsildar* shall, as far as may be in his power, immediately comply with such applications; and the police officers so deputed, shall use every means in their power to prevent resistance or other breach of the peace in such cases: he shall also give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereon, if afterwards required, either before the judge or magistrate.

The courts of justice to discourage and punish unfounded complaints against persons attaching property, or officers employed in collecting the rents; as well as their being summoned

XII. It being a frequent practice with the under-tenants to lodge unfounded complaints in the *foujdaree adawlut* against persons attaching their property, as well as against the officers employed in collecting their rents, and likewise to cause their being summoned as witnesses in causes, with the merits and circumstances of which they are totally unacquainted, for the sole purpose of creating embarrassment and delay in the collection of the rents, the courts

courts of justice are required at all times to discourage and punish such culpable practice, as far as the powers vested in them by the regulations may admit. Section 10, Regulation IX. 1793, is to be strictly enforced in all cases of litigious and unfounded complaints of the nature herein referred to before the magistrate, and in instances of the *zemindaree* officers or others employed in the collections being improperly summoned as witnesses, in the civil courts, the party who summoned them shall be compelled, under Section 6, Regulation IV. 1793, to make them such allowance for their expences as may be sufficient for their full indemnification. It is further hereby declared, that if any person shall wantonly, and without good cause, be the means of summoning to the courts of justice, civil or criminal, the principal officer engaged in collecting the rents of any *talookdar*, *zemindar*, or other landholder, or farmer of land, and a loss of rent or other evident damage shall be sustained by the landholder, or farmer, in consequence of such wanton and unnecessary summons, an action shall lie against the party who caused the summons, for such loss or damage; and on proof thereof in the *dewanny adawlut*, or before the native commissioners appointed under Regulation XL. 1793, if the case be cognizable by them, the party injured shall be entitled to recover the amount with all costs of suit.

as witnesses, merely to create embarrassments and delay in the collections.

Section 10, Regulation IX. 1793, and Section 6, Regulation IV. 1793, to be strictly enforced in such cases.

Compensation to be adjudged also, with all costs of suit, for any loss or damage sustained by the wanton summons of any officers engaged in collecting the rents.

XIII. The civil courts are already directed by Section 32, Regulation XLV. 1795, to hear and determine all suits instituted under that regulation previous to any others that may be depending. They are, moreover, instructed to appropriate one day in each week, or two or more days, if necessary, for the trial of suits regarding the rent of land, or the public revenue assessed thereon in conformity to Section 22, Regulation III. 1794, hereby extended to Benares; and in all cases cognizable by the native commissioners, appointed under Regulation XXXI. 1795, the latter are to hear and determine suits respecting rent or revenue before any others that may be depending. It is further hereby declared, that Section 31, Regulation XLV. 1795, which authorizes persons whose property may have been distrained to sue for any injury sustained thereby in the *zillah dewanny adawlut*, and allows landholders and farmers of land to sue defaulters or their sureties in the *zillah dewanny adawlut* for arrears of rent, instead of distraining their property, if such mode of procedure be preferred by them, was not meant to restrict the native commissioners appointed under Regulation XXXI. 1795, from taking cognizance of any suits of the above description not exceeding fifty sicca rupees, whether preferred to them in the first instance in their capacity of *munsiffs*, or referred to them by the judge of the *dewanny adawlut* under the provisions contained in the above regulation.

Strictest observance required of Section 32, Regulation XLV. 1795.

Section 22, Regulation III. 1794, extended to Benares.

And native commissioners under Regulation XXXI. 1795, to determine suits respecting rent or revenue before any others depending.

Explanation of Section XXXI. Regulation XLV. 1795.

Not meant to restrict native commissioners from taking cognizance of suits for rent or revenue not exceeding fifty sicca rupees.

XIV. *First.* Any *talookdar*, *zemindar*, or other proprietor or farmer of land, to whom an arrear of rent may be due from a dependant *zemindar*, *kutkinadar*, *jotedar*, or other under-tenant of whatever denomination, which cannot be realized by distraining the personal property of such under-tenant, and his surety (if he shall have given security), is at liberty, after demanding such arrear from the defaulter, and from his surety, if forthcoming, or without any express demand, if he have reason to believe that the defaulter or his surety is prepared to abscond, to cause the immediate arrest of such defaulter and his surety in the manner following.

Any landholders or farmer to whom an arrear of rent may be due from an under-tenant which cannot be realized by distress, may cause the arrest of the defaulter and his surety in the manner following.

Second. The proprietor or farmer to whom the arrear may be due, or his authorized agent, is to present a petition to the judge of the *zillah dewanny adawlut*, or in cases wherein there may be reason to apprehend the immediate elopement of the defaulter or his surety, to the native commissioner appointed under Regulation XXXI. 1795, within whose jurisdiction the party may reside, specifying the arrear due from the defaulter, and praying that he and his surety (in case he shall have given security) may be taken into custody unless the amount be paid. On receipt of a petition to this effect by a native commissioner appointed under Regulation XXXI. 1795, he shall, if the defaulter and his surety, or either of them be within his jurisdiction, immediately cause such party to be arrested, and unless immediate payment be made of the arrear demanded, shall within twenty-four hours, cause him to be conveyed to the judge of the *zillah dewanny adawlut*; who shall proceed thereon in like manner as he is hereafter directed to do in the event of the petition being presented to him, and of the party having been arrested by his immediate order. But no native commissioner shall detain any defaulter or surety in custody without sending him to the judge, above twenty-four hours, under penalty of being dismissed from his office, and made liable to prosecution

Petition to be presented to judge of the *dewanny adawlut*, or native commissioner appointed under Regulation XXXI. 1795.

What such petition is to contain.

Native commissioner how to proceed on receipt of such petition.

And judge how to proceed on the party arrested by a native commissioner being brought before him.

No commissioner to detain a defaulter or surety in custody without sending him to the judge, above twenty-four hours.

Except by desire of the parties, and under a written assent to stay process.

secution for false imprisonment, unless the party in arrest shall, by a written application, desire the same for the purpose of adjusting his arrear with the party who caused his arrest, and the latter shall assent thereto, in which case his written acquiescence is to be superscribed or endorsed on the application with his signature, and to be written in such specific terms as may leave no doubt of the time for which such assent to stay process is given.

Judge how to proceed, if the petition of arrest be presented to him in the first instance.

Third. If the petition of arrest, stated in the preceding clause, be presented in the first instance to the *zillah* judge, (and to save time, it is allowed to be presented either in or out of court, and by any authorized agent, whether one of the established *vakeels* of the court or otherwise;) the judge, if the defaulter or surety be within his jurisdiction, is immediately to issue a *dustuck* for the arrest of such party, and to bring him before the court, unless he pay the arrear demanded; and if such payment be not made on serving the *dustuck*, or within twenty-four hours afterwards (which time is to be allowed to the party arrested to adjust the demand), the officer charged with the *dustuck* is to complete the execution thereof, by conveying the party to the *zillah* court. Provided, however, that if the party arrested shall, by a written application, request a longer period than twenty-four hours to adjust the demand against him, and the party causing the arrest shall by a written superscription or endorsement on such application, acquiesce therein, the officers charged with the *dustuck* shall delay the execution accordingly; and whenever the party at whose instance the *dustuck* may have been issued, shall, by a written *derkhaust*, declare himself satisfied, and desire the arrest to be withdrawn, it shall be immediately withdrawn accordingly, the officers charged with the *dustuck* (who are never to exceed two in number, unless in any particular case a greater number be considered necessary to prevent escape,) being at the same time paid the *tullubbana* due to them at the rate of two annas per diem, or any lower rate that may have been the customary allowance to persons deputed with revenue processes.

Dustuck for arrest issued by the judge, how to be executed.

Dustuck when to be withdrawn.

Number of officers to be charged with *dustuck*.

And rate of *tullubbana* to be allowed them.

Fourth. When a defaulter or his surety may be brought to the *zillah* court under either of the two preceding clauses, the judge shall call upon him to answer the demand against him, and if he deny it, or any part of it, shall enter upon a summary enquiry into the merits of it, by examining the vouchers and accounts of the parties; or may refer the case to the collector of the district for adjustment and report, as he is authorized to do in all causes of rent, and other matters heretofore cognizable in the courts of *maal adawlut*, by Section 13, Regulation VIII. 1794, extended to Benares by Section 2, Regulation LIV. 1795, and as the judges in general are now required to do, in every cause of this description, which neither themselves nor their registers may be able, from other avocations, to try and determine without delay, and which may not be cognizable by the native commissioners acting under them. The landholders and farmers are allowed to employ any *vakeel* they may think proper to appoint, provided he be duly empowered by them to attend such inquiries, before the collectors, as well as the summary inquiry directed in this regulation before the judge.

Summary inquiry to be made by the judge, upon a party's being brought before him.

Or case to be referred by him to the collector.

Judges required to refer to the collectors, all causes heretofore cognizable in the courts of *maal adawlut*, which neither themselves nor their registers may be able to determine.

Fifth. The judge, after receiving the collector's report, if the case be referred to him for adjustment, or after completing his own inquiry, (if it be not so referred,) is to discharge the defendant, with full costs and damages, if it appear that no arrear is due from him, or that the arrear demanded has been wilfully mis-stated by the plaintiff, and a considerable proportion of the demand is not justly due. But if it appear that the arrear demanded, or a considerable proportion thereof, be justly due from the defendant, he is to be kept in close custody, until he pay the amount, with all costs, and interest on the arrear at the rate of one per cent. per mensem; or until the plaintiff make application to the court for his release. The plaintiff is to pay to such defendant, whilst in confinement, the same allowance for his subsistence as is fixed for other prisoners in the jail of the *dewanny adawlut* by Section 8, Regulation IV. 1793, viz. such allowance as the judge may think proper on consideration of the rank and situation of the prisoner, not exceeding four annas, nor less than one anna per diem; and the payment is to be made in the same manner, and under the same provisions as prescribed in the above section.

In what cases the defendant is to be discharged with costs and damages.

Defendant to be kept in close custody, if the arrear demanded be found due from him, and to pay costs and interest.

Subsistence allowance to be paid by plaintiff.

Sixth. When an under-farmer, *jotedar*, or other under-tenant, arrested as above described, shall not immediately discharge the arrear demanded from him, and shall in consequence be taken into custody by the judge of the *dewanny adawlut*, the proprietor or farmer of land, to whom such arrear may be owing, is at liberty to attach the farm, *jote*, or other tenure of such defaulter, and to manage the same by his own agents, or in such manner as he may think

In what cases proprietors and farmers of land may attach the farm, *jote*, or other tenure of their defaulting tenants.

think proper, until the rent due to him, with the further rent that may become due after the attachment, and interest upon the whole arrear at the rate of one per cent. per mensem, shall have been liquidated from the produce. But in such cases of attachment, the proprietor or farmer-making the same, shall not exact more from the cultivators of the soil, and other descriptions of inferior tenantry, whose rent for the current year may have been payable to the defaulter, than the defaulter himself would have been entitled to receive from them if the attachment had not taken place, (cases of collusion and illegality under the regulations excepted;) and in the event of the defaulter making good the arrear due from him, with interest at the rate of one per cent. per mensem, at any time within the current year, the attachment shall be immediately withdrawn, and a full and fair account rendered to him of all receipts and disbursements during the continuance of it.

Restriction against undue exactions from the cultivators of the soil.

Attachment to be withdrawn on payment of the arrear due with interest.

Seventh. If the arrear be not liquidated within the current Fussily year, either by the payments of the defaulter or his surety, or by the attachment of his tenure, the *talookdar*, *zemindar*, or other proprietor of the land, or the farmer in whose farm the defaulter's tenure may be included, (if such farmer's lease extend beyond the current year,) is at liberty, at the commencement of the ensuing year, to make such provision for the future receipt of the rents payable to him from the land tenanted by the defaulter, as he may judge proper, and may be consistent with the rights of all other persons concerned. If the defaulter be an under-farmer for the past year only, or whose lease may have expired with the past year, he can of course have no claim to any further lease; and although his lease may not have expired, if he shall have neglected to fulfil the conditions of it by the payment of his stipulated rent, it must be considered liable to be annulled, or otherwise at the option of the lessor. If the defaulter be a dependant *zemindar*, or the holder of any other tenure, which by the title-deeds or established usage of the country, is transferrable by sale or otherwise, it may be brought to sale by application to the *dewanny adawlut*, in satisfaction of the arrear of rent, and the purchaser will become the tenant for the year; or, if the defaulter be a lease-holder or other tenant, having a right of occupancy only so long as a certain rent or a rent determinable on certain principles according to local rates and usages be paid, without any right of property or transferrable possession, the proprietor of whom such tenure is held, or the farmer or other person to whom such proprietor may have leased or committed his rights, must be understood to have the right of ousting the defaulting tenant from the tenure he has forfeited by a breach of the conditions of it. In such cases, (viz. in the several cases enumerated in this clause under the stated exception when a sale of landed property may be desired,) proprietors and farmers of land are at liberty to exercise the just powers appertaining to them without any previous application to the courts of justice; but they will be held responsible for all acts done by them, or by their agents, which may exceed their just powers, and infringe the rights of under-tenants of whatever description, whether founded on *pottahs* or other written deeds and engagements, or on long prescription and established local usage. This regulation is not meant to define or limit the actual rights of any description of landholders or tenants, which can be properly ascertained and determined by judicial investigation only, but merely to point out in what manner defaulting tenants may be proceeded against in the event of their not paying the rents justly due from them, leaving them to recover their rights, if infringed, with full costs and damages, in the established courts of justice, under the provisions already stated in this regulation for bringing such causes to a determination with the least possible delay.

What further measures may be taken by the landholders and farmers for the security of their future rents.

Proprietors and farmers of land at liberty to exercise their just powers;

But will be held responsible for all acts done by them or their agents infringing the rights of their under-tenants.

Eighth. In like manner in all other instances, the courts of justice will determine the right of every description of landholder and tenant, when regularly brought before them, whether the same be ascertainable by written engagements, or defined by the laws and regulations, or depend upon general or local usage, which may be proved to have existed from time immemorial; but it is hereby declared, that no part of the existing regulations was meant to deprive the *talookdars*, *zemindars*, and other landholders of the power of summoning, and if necessary, compelling the attendance of their tenants for the adjustment of their rents, or for any other just purpose; or of measuring any land within their respective estates, which may be liable to measurement under the conditions upon which such land may have been leased or held. For the just exercise of such rights and powers, the landholders are not required to make any previous application to the courts of justice, and any person opposing them

The courts of justice to determine the rights of every description of landholder and tenant.

Penalty for any opposition to the landholders in the just exercise of their rights.

Also for any abuse of the above power by the landholders.

them therein, will, on proof in the *dewanny adawlut*, be liable to full damages and all costs, besides being subject, for any breach of the peace, to prosecution and punishment in the criminal courts; but the landholders, their agents and representatives, will be held answerable for any abuse or unjust exercise of the powers hereby declared to be vested in them, and on proof thereof by the party aggrieved in the *dewanny adawlut*, they will be liable to pay full costs and damages, besides a fine to Government if the case shall appear to deserve it.

Persons confined under clause fifth of the preceding section, may institute a suit in the *dewanny adawlut*.

Judgment to be passed, if the arrear denied by them be found not due.

Or if the demand be discharged by them, and afterwards found not due.

XV. Persons confined under clause fifth of the preceding section, and desirous of bringing the demand upon them to a regular judicial investigation and decision in the *dewanny adawlut*, are at liberty to institute a suit against the landholder or farmer, at whose instance they may have been confined, for this purpose; and should the amount denied by them be found upon trial not to have been due, they shall receive judgment for full costs and damages against the party by whom it may have been claimed. They shall also be entitled to a similar judgment, with interest at the rate of one per cent. per mensem, upon the amount paid by them, and found not to have been justly due from them, if they shall discharge the demand upon them, with a view to obtain their release from arrest or from subsequent confinement under the preceding section, and shall afterwards, in a suit in the *dewanny adawlut*, for recovery of the amount so paid, establish that it was not due from them at the time of the demand.

Claims rejected on the summary inquiry may be also sued for in the *dewanny adawlut*.

Judgment to be given, if such claims be established.

XVI. Proprietors and farmers of land, whose claims to arrears of rent may be rejected by the *zillah* judge, on the summary inquiry directed in Section 14. of this regulation, are also at liberty to institute a regular suit in the *dewanny adawlut* for the recovery thereof; and if, on trial, the amount claimed by them shall be found to have been due when the summary judgment was given against them in the first instance, they shall be entitled to receive back any sums paid by them for costs or damages under such judgment, and to a decree from the *zillah* court, for the arrears of rent due to them, with interest at the rate of one per cent. per mensem, and the full costs incurred by them, as well on the summary enquiry as on the regular suit.

Summary judgments under Section 14, not open to appeal.

XVII. That no doubt may be entertained whether the summary judgments which the *zillah* courts are authorized to pass under Section 14. of this regulation, are open to appeal to the provincial courts of appeal, it is hereby declared, that they are not subject to appeal, as any person considering himself aggrieved by them can have his remedy by a regular suit in the *dewanny adawlut*, as above pointed out. It is also declared, that no institution fees, or fees upon exhibits, are to be levied on the summary processes authorized by the section above mentioned, but the rules in Regulation VI. 1797, and in all other regulations, relative to stampt paper, are to be considered applicable to the process in question, in like manner as in all other cases, wherein stampt paper is required to be used, whether for original papers or for copies.

Institution fees &c. not to be levied on summary processes.

But rules regarding stampt paper applicable to them.

Rules in preceding sections applicable to managers of estates, as well as to the officers of Government.

XVIII. The rules in the whole of the preceding sections, for the recovery of arrears of rent due to proprietors and farmers of land, are to be considered equally applicable to the managers of estates, as well as to the collectors or other public officers holding lands in attachment for the purpose of adjusting the public assessment on them, or for any other purposes, or making a *khas* collection on the part of Government, where no settlement has been made with any proprietor or farmer; and the authorized agents of such managers, collectors, or other public officers, provided they be so commissioned and instructed, are to exercise the same authority as is vested in the agents of proprietors and farmers of land, by Section 2. of this regulation.

The foregoing provisions for the *zillahs*, to be also in force in the city of Benares.

Provisions in Section 14. extended to the agents of landholders and farmers.

XIX. It is further to be understood, that whatever powers are vested in, and duties required from, the *zillah* judges, by any part of the preceding sections of this regulation, are meant to be equally vested in, and required from the judge of the city of Benares, and the whole of the foregoing provisions to be in force throughout the jurisdiction of the city judge, as far as the same may be applicable. The provisions in Section 14. as far as they can be applied, are likewise declared to extend to the *sudder* and *mofussil amlah*, or native agents of every description, employed by the landholders and farmers in the management of their estates and farms, or collection of their rents. Any landholder or farmer having demands upon such agents whilst in his service, or immediately after their resignation or dismission from his

his service, whether for money in their hands, or for accounts which they may refuse to render, or for any matter relating to the discharge of their respective trusts whilst in his employ, may proceed against them for their arrest and confinement, in like manner as by Section 14. of this regulation, he is authorized to proceed against defaulting under-tenants, and the *zillah* and city courts, and native commissioners, are to take the same measures for the aid of the landholders and farmers in such cases, as they are directed to take for the recovery of arrears from defaulting tenants.

Punctuality expected from landholders and farmers.

XX. The foregoing rules will afford proprietors and farmers of land the means of realizing their rents with promptitude and facility, and the utmost punctuality will consequently be expected from them in the payment of their revenue to Government. The process by which the collector and *tehsildars* are to realise the land revenue in the province of Benares, has been prescribed in Regulation VI. 1795, and the following provisions are now made in addition thereto.

Provisions in addition to Regulation VI. 1795.

Landholders and farmers to be charged with interest on all arrears of revenue.

XXI. If the whole or any part of the monthly instalment payable by a proprietor or farmer of land, be not discharged by the date on which it may become due, as required by Sections 3, and 7, Regulation VI. 1795, the defaulter for the amount remaining undischarged shall be liable to the payment of interest at the rate of one per cent. per mensem, from the date on which the arrear became due, until it be discharged, as provided by Section 12. of the above regulation; but with this difference, that the collector shall not wait the order of the Board of Revenue, nor shall the Board of Revenue wait the sanction of the Governor General in Council, to levy such interest, which is to be demanded and enforced (in the same manner as all other revenue demands are enforced) as the common interest upon money due, unless in any particular instances it should appear to the collector just and proper to exempt the defaulter from the payment of such interest, in which case, he is to report the circumstances to the Board of Revenue, and be guided by their instructions

Exception.

Recapitulation of Section 14, Regulation VI. 1795.

XXII By Section 14, Regulation VI. 1795, it is prescribed, that "In all cases of the default, or confinement *of* parties from whom revenue may be due, the collector is to issue directions to the *tehsildar* of the district in which the lands of the defaulter may be situated, to levy the public revenue by realising, in concert with the *serishtadars*, the defaulter's full share of the assessment on the crops to the end of the year, or until such time as he or his surety, in case he shall have given security, shall have paid up the balance, together with the charges of the *peons* who may have taken him into custody." It is further hereby enacted, that whenever a proprietor or farmer of land may subject himself to confinement, and his estate or farm to attachment, for arrears of revenue under the provisions contained in Regulation VI. 1795; but if the collector shall be of opinion that, instead of confining the person of the defaulter and attaching his estate or farm, the arrear due from him will be more speedily discharged by distraining and selling any personal property belonging to the defaulter and his surety according to the prescribed process in Regulation XLV. 1795, and the preceding sections of this regulation, whereby landholders and farmers are authorized to recover arrears of rent from their under-tenants by distraining and selling the personal property of the latter; or if in any case, notwithstanding the confinement of a defaulting proprietor or farmer, and the attachment of his estate or farm for an arrear of revenue, such arrear be not discharged, and the defaulter or his surety shall possess any personal property from which the same can be made good, the collector may, in all such cases, direct the *tehsildar* of the district in which the personal property of the defaulter and his surety may be forthcoming, or, if it be a *huzooree mohaul*, any officer whom he may think proper to appoint for the purpose, to cause the personal property of the defaulter and his surety to be distrained and sold as far as necessary for the recovery of the arrear due, in the mode and under the restrictions prescribed by the regulations with regard to the distress and sale of the personal property of under-tenants for the recovery of arrears of rent due from them to proprietors and farmers The collector also, in all cases wherein he may judge it expedient, is empowered to vest the *tehsildars* with discretionary authority to proceed against defaulters within their respective *tehsildaries* by the established process of distress and sale, without waiting for his previous sanction; but in such cases the *tehsildars* will be held personally answerable, if the amount for which the distress may be levied is found not to have been justly due; and in all cases wherein property may be distrained and brought to sale by the

In what cases the collector may cause the personal property of defaulting landholders to be distrained.

In what mode and under what restrictions such distress and sale to take place.

In what cases the collector may vest *tehsildars* with a discretionary authority to proceed against defaulters by established process of distress and sale.

Responsibility of *tehsildars* in such cases

And whenever property may be distrained and brought to sale by them.

the *tehsildars*, they will be held responsible for any wilful deviation from the regulations as prescribed with regard to the agents of landholders and farmers, in Section 2. of this regulation.

Attachments for arrears when to be withdrawn.

XXIII. Whenever the estates of defaulting proprietors, or the farms of defaulting farmers, may be attached under Sections 14. and 15, Regulation VI. 1795, if the arrear due, with any further arrear that may become due from the same proprietor or farmer, be discharged from the collections or otherwise at any period before the end of the current Fussily year, together with the amount of any expense attending the attachment, such attachment shall be immediately withdrawn, and a full and fair account rendered of all receipts and disbursements during the continuance of it. Moreover, the liberty given by Section 16, Regulation VI. 1795, to prosecute the collector or *tehsildar* in the *zillah* and city courts of *dewanny adawlut* for any breach of the rules contained in that regulation, is extended in like manner to a breach of any of the rules in the present regulation; but such part of the above section as authorizes the judge of the *dewanny adawlut*, on security being given by the plaintiff, to issue a precept for his discharge from confinement and personal restraint, shall not be considered as directing the attachment of the plaintiff's estate or farm to be withdrawn, unless the arrear of revenue claimed from him by the collector or *tehsildar* be paid; nor shall the distress and sale of any personal property belonging to the plaintiff, be stopped on account of his having instituted a suit against the collector or *tehsildar* contesting the justice of the demand upon him. Provided, however, that if any proprietor or farmer of land, from whom an arrear of revenue may be demanded, shall, by a written representation to the collector, deny the justness of such demand, but to prevent any coercive process being issued against him, shall discharge the demand, and shall afterwards establish by a suit in the *dewanny adawlut*, that the amount so paid by him, or any part thereof, was not justly due, the amount of the excess so established, shall be immediately repaid from the public treasury with interest at the rate of twelve per cent. per annum, from the date on which such excess may have been received to the date of repayment. All the rules in Regulation VI. 1795, respecting suits instituted against the collector for sums received by him on the part of Government, are to be considered applicable to suits that may be instituted against the collector under this section; and all the provisions in the above regulation for the punishment of resistance, disobedience, or evasion of the collector's process against defaulting proprietors or farmers, are to be still considered in full force, and applicable to any process issued by the collector under this regulation. As, however, under Section 2, Regulation V. 1798, the decrees of the provincial courts of appeal are declared final to the amount of five thousand sicca rupees, that amount is to be considered the standard for appeals to the Sudder Dewanny Adawlut, instead of one thousand sicca rupees before limited, and the same rule is to be applied to all other parts of the regulations in which an appeal was authorized to the court of Sudder Dewanny Adawlut antecedent to the enaction of Regulation V. 1798, for the limitation of appeals to that court.

Liberty to prosecute collector or *tehsildar* under Section 16, Regulation VI. 1795, extended to any breach of the present regulation.

But attachments not to be withdrawn until the arrear demanded be paid.

Nor distress and sale of personal property to be stopped on account of suits having been instituted.

Provision for repayment of any overplus, with interest, if established in the courts of justice.

Rule in Regulation VI. 1795, applicable to such case.

Provisions against resistance, disobedience, or evasion of the collector's process, in Regulation VI. 1795, applicable to process issued by the collector under this regulation.

Explanation with respect to standard of appeals to the *sudder dewanny adawlut*.

Section 15, Regulation VI. 1795, still in force.

Exception to prevent collusion.

XXIV. The provisions in Section 15, Regulation VI. 1795, in cases of attachment, are likewise to be still considered in full force, except that the injunction to the *tehsildar* to collect from the *ryots* according to their engagements with the defaulter, is not to be considered applicable to engagements evidently collusive, which may have been contracted in expectation of the attachment, with a view to prevent the officers of Government from receiving the just rents during the continuance of it. In such cases the *tehsildar* is to collect according to the established rates and usages of the *pergunnah*, as he is directed to do in cases where no engagement exists between the defaulter and his under-tenants. It is further hereby declared, that after the promulgation of this regulation, no anticipation of the rent will be admitted in cases of attachment. The landholders and farmers are prohibited from demanding or receiving, and the *ryots* and other under-tenants are prohibited from paying, any part of the rents receivable by the former and payable by the latter, before the stipulated or usual period of payment, according to the *kistbundy* or other engagements, or established local usage; and no person hereafter making anticipated payments, against this prohibition, or producing receipts for such, whether collusive or otherwise, shall be entitled to credit for the amount from the officers of Government who may attach the lands or farm, or from the landholder or farmer making the attachment, if it be made for arrears due from an under-tenant,

Further provisions against anticipation of the rents.

under the provisions contained in this regulation. Nor shall credit be allowed for any payment made to a defaulter, after proclamation of the attachment of his estate or farm, until further proclamation be made that such attachment has been withdrawn, unless it can be clearly shewn that such proclamation, which is to be made as public as possible throughout the attached lands immediately on the attachment taking place, was notwithstanding unknown to the party making payment to the defaulter at the time when such payment may have been made. Provided, however, that nothing herein contained shall be understood to exonerate the defaulter from crediting his under-tenants, or otherwise accounting for, all sums received by him, whether in anticipation of the rents, or subsequently to the attachment of his estate or farm, the above restrictions having reference to the attachment only.

Accounts to be furnished by *putwarees* in cases of attachment.

Collector to cause general appointment of *putwarees* according to Regulation XXVII. 1795.

XXV. In all cases of attachment, the village *putwarees* required to be appointed by Section 9, Regulation XXVII. 1795, will of course be bound to furnish the collector and *tehsildar*, or other officers deputed by him, with the accounts directed to be kept by them; and the collector is hereby required to make immediate measures for ascertaining whether the *putwarees* have been universally appointed throughout the province, as enjoined in the above section; as well as to cause their immediate appointment where they may be found wanting, by requiring immediate compliance from the landholders with the regulation in question, under the penalty prescribed in clause ninth of the section above mentioned, which, if necessary, is to be enforced in the mode therein provided. It is at the same time hereby explained, that it was not meant by the above regulation to require the proprietors of small estates, who may superintend their own lands and be unable to afford the expence of a *putwaree*, to appoint officers of this description, but in such cases the proprietors themselves are, when required, to furnish the accounts and information specified in the abovementioned section, in like manner as the *putwarees* are required to furnish the same, and under the same provisions. Defaulting proprietors and farmers of land, whose estates or farms may be attached under this regulation, are also required to furnish the collector with any accounts that may be required from them, relative to the *jumma*, collections, and outstanding balances of the current year, or of preceding years, which may be in their possession, as well as to cause their agents of every description, who may have been employed in the collections of the current year, to attend the collector, *tehsildar*, or other officer appointed by him. Any proprietor or farmer, who, on receiving a written requisition from the collector, under his official seal and signature to the above effect, shall refuse or neglect to comply therewith, shall be liable to such fine as the Board of Revenue, with the sanction of the Governor General in Council, may think proper to impose upon him on the collector's report of the circumstances of the case; and the Governor General in Council reserves to himself the power of ordering the imprisonment of any landholder or other person, who may persist in refusing to deliver up the accounts required from him in any particular instance.

Explanation with respect to small estates managed by the proprietors.

Proprietors and farmers of attached lands to furnish collectors with any accounts required from them, in their possession.

And to cause their agents to attend the collector or officers appointed by him.

Penalty for non compliance with this rule.

Arrears at the close of year, to be reported to the Board of Revenue, with propositions for their recovery, in conformity to Section 17, Regulation VI. 1795.

x XXVI. If any arrear remain due from a proprietor or farmer of land at the close of the Fussily year, the collector is immediately to report the amount to the Board of Revenue, with a statement of the cause of failure as required by Section XVII. Regulation VI. 1795, and his sentiments on the measures proper to be adopted under the provisions contained in Sections 17. and 18. of the above regulation. In consideration of the state of landed property and other local circumstances in the province of Benares, although the engagements executed by the landholders declare their property, real and personal, liable to sale for arrears of revenue, the actual sale of their lands has not been enforced, except in cases of necessity or gross misappropriation of the funds from which their revenue is payable; but a general discretion is reserved to the Governor General in Council, to order a sale of land for the recovery of arrears of revenue; and whenever such sales may take place, they are to be made under the several provisions contained in Section 29, Regulation VII. 1799, in addition to the rules already in force within the province of Benares, viz. Sections 32, 33, and 34, Regulation VI. 1795, and Regulation XII. 1796, as well as Regulation V. 1796, hereby extended to the above province.

Under what rules sales of land, when ordered by the Governor General in Council, are to take place.

Section 29, Regulation VII. 1799; and Regulation V. 1796, extended to Benares.

Section 30, Regulation VII. 1799, also extended to Benares.

And Sections 15, 16, 17, 18, 19, 20, and 21, Regulation III. 1794.

XXVII. Section 30, Regulation VII. 1799, whereby the Board of Revenue are appointed to conduct the public sales of land, and to fix the necessary establishments of native officers during the attachment of lands for sale, is also hereby extended to Benares, together with Section 15, Regulation III. 1794, therein referred to, and the following sections of that

x Rev.d by Cr. S2. Reg XI of 1822

that regulation, requiring the collectors to take security for the appearance of all native officers entrusted with the receipt or payment of public money, or the charge of public accounts, and directing how they are to proceed for the recovery of the public money or accounts in the possession of such officers.

Collector of Benares may propose regulations to the Board of Revenue

XXVIII. The collector of Benares is authorised to propose to the Board of Revenue, in the prescribed form, any regulation regarding matters within his cognizance, which his local knowledge and experience may suggest to him as advisable to be adopted; and provided it be drawn out according to the form directed by Regulation XLI. 1793, the Board of Revenue are to forward the same to the Governor General in Council, in the mode prescribed by Section 31, Regulation VII. 1799.

Who, are to proceed thereon according to Section 31, Regulation VII. 1799.

A. D. 1801. REGULATION I.

A REGULATION *to explain and amend Part of the Rules for collecting the Public Revenue, contained in Regulations VII.* 1799, *and V.* 1800; *to expedite the Sale of Lands for Arrears of Revenue; to limit the Division of Property by such Sales; to explain and amend the Rules contained in Regulation XXV.* 1793, *(extended to Benares by Regulation XXVI.* 1795*) for the Division of joint Estates, and Allotment of the fixed Assessment thereupon; and to fix a Period for the Operation of such Part of Regulation VIII.* 1793, *as authorises the Separation of certain Talooks from the Zemindarees to which they were attached at the time of the decennial Settlement.*—PASSED *by the Governor General in Council, on the 15th January* 1801; *corresponding with the 4th Maug* 1207 *Bengal era; the 15th Maug* 1208 *Fussily; the 4th Maug* 1208 *Willaity; the* 15*th Maug* 1857 *Sumbut; and the 29th Shabaan* 1215 *Higeree.*

Preamble.

THE rules contained in Regulation VII. 1799, (extended to Benares with modifications by Regulation V. 1800,) for the more punctual collection of the land revenue by attachment of the lands in cases of arrear, and by a sale of them at the close of the year for which the arrear may be due, have materially promoted the object proposed by them, but have been partly deprived of their effect by indiscriminate attachment of the lands, without due regard to the discretion vested in the collectors by clause seventh, of Section 23, Regulation VII. 1799, and by the delays which have occurred in bringing portions of estates to sale for the recovery of arrears outstanding at the close of the year. With a view, therefore, to explain and amend the rules contained in the above regulations; to extend, under restrictions, to the provinces of Bengal, Behar, and Orissa, the rule established in Benares by Section 22, Regulation V. 1800, for the distress and sale of the personal property of defaulting landholders and farmers, when necessary for the recovery of arrears of revenue, or other public demands; also to expedite the sale of lands for arrears of revenue; to limit the division of property by such sales; to explain and amend the rules contained in Regulation XXV 1793, (extended to Benares by Regulation XXVI. 1795,) for the division of joint estates and allotment of the fixed assessment thereupon; and to fix a period for the operation of such part of Regulation VII. 1793, as authorizes the separation of certain *talooks* from the *zemindarees* to which they were attached at the time of the decennial settlement; the Governor General in Council has enacted the following rules, to be in force as soon as promulgated throughout the provinces of Bengal, Behar, and Orissa; and, in the province of Benares, as far as they are declared applicable to that province.

Collectors not to attach estate or farm of any proprietor or farmer for arrears in the three first months of the year, without orders from the Board of Revenue, nor subsequently without such orders, except in particular cases.

II. By clause first, of Section 23, Regulation VII. 1799, proprietors and farmers of land assessed with the public revenue, who may not discharge the monthly instalment of revenue demandable from them on or before the first day of the succeeding month, are made liable to the payment of interest on the amount of the arrear due from them at the rate of one per cent. per mensem; and by clause second, of the same section and regulation, it is enacted, that if the arrear so due, principal and interest, shall not be discharged on the written requisition

requisition prescribed in Section 3, Regulation XIV. 1793; (which allows a reasonable time for conveying the money to the public treasury according to the distance of the estate or farm of the defaulter;) nor assurance given for the immediate payment of it, to the satisfaction of the collector; he shall proceed without delay to attach the estate of the proprietor from whom the arrear may be due, or such portion thereof as he may consider fully sufficient to make good by a sale the arrear due, with interest; or, if the arrear be due from a farmer, shall proceed without delay both to attach his farm and arrest his person (as well as the person of his surety, if he have given security) in the mode prescribed by Sections 5. and 6, Regulation XIV. 1793. But clause seventh, of the same section and regulation, authorizes and directs the collectors to suspend the exercise of the above powers, in cases of drought, inundation, or other calamity of season; as well as in all cases where the cause of failure may not have originated in the neglect, mismanagement, or misconduct of the defaulter. The collectors were at the same time required, in all such cases, to report the circumstances to the Board of Revenue, and to be guided by their instructions; under which provision, and the discretion so vested in the collectors, it was expected that they would suspend the attachment of estates and farms, and report the case to the Board of Revenue, in all instances wherein, from inquiry made by them, or information given to them, there might be ground to believe that the failure was not wilful; or had not originated in the neglect, mismanagement, or misconduct of the defaulter. But few such reports have been received from the collectors by the Board of Revenue, although many instances of the nature referred to must have occurred since the promulgation of Regulation VII. 1799; particularly in the early part of the year, whilst the landholders and farmers are adjusting their *mofussil* settlements for the year; at which period it must be highly inconvenient and injurious to the landholders and farmers that their lands and farms should be attached by the officers of Government. It is therefore hereby enacted, that no collector shall attach the estate or farm of any proprietor or farmer of land for arrears of revenue during the three first months of the Bengal, Fussily, or Willaity year, (according to the era current in the several *willahs*), without the express sanction and order of the Board of Revenue, on a report of the case to be made to them by the collector: nor shall the attachment be subsequently made without such sanction and order, unless the collector shall judge the same expedient, with a view to induce payment of the arrear by the defaulter; or to prevent his misappropriation of the remaining rents of the year; or to obtain accurate information of the assets of the estate for the purpose of disposing of a portion of it by public sale at the close of the year; in either of which cases, the attachment is to take place, after the third month of the year, under the several provisions of Regulation VII. 1799; except that whenever the attachment may be judged advisable for the purposes above stated, the whole estate shall be attached, instead of a portion thereof, as authorized by clause second, of Section 23, Regulation VII. 1799. Provided further, that the exception from the rule for attachment during the three first months of the year shall not be considered applicable to attachments made in the preceding year, and continued after the expiration of it with a view to the lands being brought to sale for the recovery of the arrear due from them; and whenever the collectors and Board of Revenue may not judge it expedient to attach the lands for the purposes above recited, but shall be of opinion that the public revenue is wilfully withheld by the defaulter, or that the arrear is ascribable to his neglect, mismanagement, or misconduct, it shall be competent to the Board of Revenue to impose a penalty of one per cent. per mensem on the arrear, in addition to the prescribed interest, to be paid from the time when the arrear may have become due until it be discharged; or until the estate or farm of the defaulter may be attached, (in which case the additional penalty in lieu of attachment is to cease,) and to be levied in like manner as the interest is directed to be levied, viz. in the same manner as other revenue demands are enforced under the existing regulations. In all cases where the collectors may not judge it advisable to attach the estate or farm of the defaulter for an arrear of revenue, and where the result of the fullest enquiry they may be able to make in such cases, shall induce them to believe the arrear wilful, or owing to the neglect, mismanagement, or misconduct of the defaulter, they are to report the same, with a summary of the inquiry made by them, to the Board of Revenue; in like manner as they are already required by clause seventh, of Section 23, Regulation VII. 1799, to make such report to the Board of Revenue, in cases wherein they may judge it proper to suspend the attachment of estates or farms in arrear, or to suspend the demand of interest upon arrears, on account

The entire estate to be attached instead of a portion thereof, when attachment may be deemed advisable.

Exception from the rules of attachment during the three first months of the year not applicable to attachments made in the preceding year, and continued after its expiration for the purpose of bringing the lands to sale.

Collectors to report to the Board of Revenue, when they may deem attachment for arrears unadvisable. Board empowered to levy a penalty of one per cent. per mensem on the arrear, in addition to the prescribed interest, in lieu of attachment, to continue until the arrear be paid or the estate be attached.

count of any calamity of season or cause of failure not originating in the neglect, mismanagement, or misconduct of the defaulter. The report so required, is still to be made by the collectors, whenever they may not carry into execution the general rule for attachments, after the expiration of the third month of the year; but as a full discretion is now vested in them (subject to the control of the Board of Revenue) for suspending the enforcement of that rule in all cases where they may judge the same expedient; it is expected that they will be particularly careful to inform themselves as far as possible, in all instances of arrear, of the real cause of arrear, whether want of good faith on the part of the defaulter, or actual inability from a failure in his rents or otherwise; so that the proper remedy may be applied to the ascertained circumstances of the case; and neither the public interests be injured by unmerited indulgence, or those of the individual suffer from undue severity. When the collectors, from the reports of their *mofussil* officers, or from other information obtained by them, may have good reason to believe that a defaulter has done his utmost to pay his revenue, but has been prevented by real inability, not proceeding from any personal deficiency, the attachment of his lands, whilst productive of expense and inconvenience to him, can produce no adequate advantage to Government. On the other hand, if it be known that the defaulter has the means of making good his arrear; or that the attachment of his lands will afford assets for the payment of it, which might otherwise be misappropriated; the attachment would be evidently just and expedient; and whatever expense, or other consequences might arise from it to the defaulter, would be chargeable to his own misconduct. The local officers of Government can alone make this discrimination; and the Board of Revenue, in their reports to the Governor General in Council, upon the *tourjee* accounts of the collectors, are required to notice their attention or otherwise to this important part of their duty.

Report required by clause seventh, of Section 23, Regulation VII. 1799, to be made by the collectors whenever they may not think proper to carry into execution the general rules for attachment at the end of the third month of the year.

Collectors to be careful to ascertain the real cause of arrears.

Board of Revenue, in their reports on the *tourjee* accounts, to notice the attention of the collectors to this part of their duty.

III*. *By clause fourth, of Section 23, Regulation VII. 1799, defaulting proprietors and farmers of land, whose estates or farms may be attached under that regulation, are required to furnish the collectors with any accounts that may be demanded from them, and which may be in their possession, relative to the* jumma *collections, and outstanding balances of the current year, or of preceding years; as well as to cause their agents of every description, who may have been employed in the collections of the current year, to attend the collector, or, the* ameen *or other officer appointed by him to make the attachment. But the penalties enacted for noncompliance with the above rule, having in some instances proved insufficient to cause the delivery of the requisite accounts, without which the attachment must be nugatory; the Governor General in Council hereby declares, that in such cases, provided it shall appear to his satisfaction, from the reports of the collectors and Board of Revenue, that the prescribed written requisition has been issued and has not been complied with, he will avail himself of the power reserved to him by clause eight of the section and regulation above mentioned, to order an immediate sale of the lands and other property of the defaulter for the recovery of the arrears due from him.*

The lands and other property of defaulting proprietors and farmers, who on their lands and farms being attached, shall refuse to deliver up their accounts as required by clause fourth, of Section 23, Regulation VII. 1799, to be sold for the recovery of the arrears.

IV. Instances having occurred, in which, from the very small extent of certain estates, from their dispersed situation and inconsiderable produce, it has been found impossible to attach them without an expense altogether disproportionate to the arrear and value of the estates; the proprietors of which have in consequence withheld the amount due from them, though well able to discharge it; to provide for such cases, the Board of Revenue are hereby vested with authority to order the distress and sale of the personal property of defaulters, as far as may be necessary for the recovery of arrears of revenue or other public demands, whenever, from the reports of the collectors or other information before them, they may consider it just and expedient to have recourse to this mode of recovery, instead of attaching the lands of the defaulters: and whenever such distress and sale may be ordered by the Board of Revenue, it is to take place in the mode prescribed for the distress and sale of the personal property of under-tenants for arrears of rent; under a strict observance of the rules established for this purpose by Regulation XVII. 1793, XXXV. 1795, and VII. 1799, or any future regulation on the subject. Provided, that this special rule be considered applicable only to the particular cases above referred to, in which the general rule for attachments cannot with

Board of Revenue empowered in certain cases to cause the distress and sale of personal property of defaulting proprietors.

Rules for the distress and sale of the personal property of under-tenants to be strictly adhered to in the exercise of this power.

* Rescinded by clause first, Section 2, Regulation XI. 1822.

Collectors not to exercise this power without the express sanction of the Board of Revenue, in applying for which they are to make a report of all the circumstances.

facility be put in execution; and be not in any instance understood to vest the collectors with authority to sell the personal property of any proprietor of farmer or land paying revenue to Government, without the express sanction of the Board of Revenue. In applying for such sanction, the collectors are to make a full report of the circumstances under which they may judge it advisable to have recourse to the special rule contained in this regulation; and are to state any pleas which may have been offered for the arrear, with their opinion whether the same are well founded or otherwise. Provided further, that nothing in this section, the operation of which is restricted to the provinces of Bengal, Behar, and Orissa, shall be considered applicable to the province of Benares: where the rule for the distress and sale of personal property contained in Section 22, Regulation V. 1800, and which has reference to the state of landed property and other circumstances peculiar to that province, is to remain in force as heretofore.

The rules in this section confined to Bengal, Behar, and Orissa.

On it being proved to the satisfaction of the Governor General in Council, that a proprietor or farmer of land, whose lands are ordered to be sold, has received the prescribed written requisition, and refuses to deliver up his accounts as required by clause first, of Section 29, Regulation VII. 1799, and by Section 10, Regulation XLV. 1793, the whole of the estate shall be sold instead of a portion thereof.

V°. By clause first, of Section 29, Regulation VII. 1799, and by Section 10, Regulation XLV. 1793, therein referred to, proprietors and farmers of lands ordered for sale, are required to attend the collector, or the ameen or other officer appointed by him; or if the collector shall require the attendance of an agent, to cause the attendance of such agent; with any accounts of the jumma and collections of the lands ordered to be sold, or of the estate of which such lands form a part, that may be requisite for the purpose of adjusting the public assessment upon the portion of the estate to be disposed of. But the fine prescribed for noncompliance with such requisitions has in many instances proved ineffectual; and the accounts required for adjusting an allotment of the fixed assessment upon portions of estates, to be disposed of in conformity to the regulations, being withheld by the defaulting landholders, who, at the same time, with a view to impede the sale of their estates, have withdrawn or neglected to appoint the village putwarees required by the regulations; it has been found impossible in such cases to allot the assessment to the ascertained produce of the lands, without considerable delay; whereby not only the punctual realization of the public dues is prevented, but the ends proposed by postponing the sale of lands for arrears of revenue till the end of the year under the provisions contained in Regulations VII. 1799, and V. 1800, are in a great degree defeated. To secure, therefore, the objects of the above regulations; which, by postponing the public sales of lands for arrears of revenue till the close of the year, had in view the ease and advantage of the land-proprietors and their tenants; and to provide against undue impediments in the sale of portions of estates by the misconduct of the proprietors; on whose account alone it can ever be proposed to sell a portion of an estate to liquidate an arrear account of revenue for which the entire estate is responsible; it is hereby declared, that whenever it shall be established by the reports of the collectors and Board of Revenue, and the evidence taken by them, to the satisfaction of the Governor General in Council, that any proprietor of land has received the prescribed requisition for the accounts actually kept by him, or by his agents for him, of his estate, or of the portion of his estate which may be proposed for public sale, and that such proprietor has refused or wilfully neglected to furnish the accounts required for adjusting an allotment of the assessment of his entire estate upon the portion proposed to be sold, the Governor General in Council will order the immediate sale of the whole estate, instead of a portion of it, as intended, in satisfaction of the demand to be recovered. Provided, that in such cases, the sale shall be made, after advertisement, in conformity to the general rules for sales of land; and if the proprietor at any time antecedent to the fixed day of sale, shall deliver the accounts required from him, or otherwise conform to the requisition made to him, the actual sale of the entire estate shall not take place; but instead thereof, and as a punishment to the defaulter for his withholding the accounts in his possession, it shall be competent to the Governor General in Council to impose such fine as he may judge proper, on consideration of all the circumstances of the case; in addition to any fine that may have been previously imposed upon the defaulter, in conformity to clause first, of Section 29, Regulation VII. 1799, or any other existing regulation, such fine to be levied by the same process as is prescribed for the recovery of arrears of revenue. Provided further, that if in any case a proprietor of land, required to produce the accounts of his estate for the purpose of ad-

Should the proprietor at any time previously to the day of sale conform to the requisition, the sale of the entire estate shall not take place; but it shall be competent to the Governor General in Council to impose a fine on him, in addition to any that may have been imposed under clause first, of Section 29, Regulation VII. 1799.

Should the proprietor by withholding the accounts cause his entire estate to be

Sections 5, 6, and 7, rescinded by clause first, Section 2, Regulation XI. 1822.

justing

justing the public assessment upon a portion of it for sale, shall, by pertinaciously withholding such accounts, voluntarily cause the sale of his entire estate, under the provision now made for such cases, the surplus produce of the sale, after discharging all demands for which the sale may be ordered, with the charges of sale, shall be paid to the late proprietor notwithstanding his default; unless otherwise specially directed; as provided in similar cases by Sections 4. and 5, Regulation V. 1796.

sold, the surplus after all deductions shall be paid to him notwithstanding his default, unless otherwise specially directed, as provided by Sections 4. and 5, Regulation V. 1796.

VI. By Section 2, Regulation V. 1796, it is required, in all cases of public sales of land, that the collector, or other officer to whom the sale may be committed, shall be careful to select such lands as may appear likely to sell for the amount to be recovered by the sale and no more. The unqualified operation of this rule has been found prejudicial to the public interests in the subdivision of small estates; as well as to the proprietors of such estates by parcelling them in lots so inconsiderable as to prevent a competition for the purchase of them. It is therefore hereby enacted, that whenever it may be necessary to have recourse to a public sale of land for the recovery of an arrear of revenue, or other public demand; and the total sudder jumma *or annual assessment of the estate shall not exceed five hundred sicca rupees, instead of selling a portion of such estate in conformity to the rule above mentioned, the Board of Revenue are authorized, if they shall judge the same advisable, to sell, or cause to be sold in the mode prescribed by the regulations, the entire estate in one lot; and if the amount offered shall exceed the sum due, with interest, and the charges of sale, the overplus is to be paid to the former proprietor, (unless by any special order it may be otherwise directed,) as provided by Section 5, of the regulation above mentioned. The Board of Revenue are also authorized, whenever the amount to be recovered by a sale of land shall bear such proportion to the computed value of the whole estate as may be calculated to leave only an inconsiderable surplus on the sale of the entire estate, to make or cause to be made the sale of the entire estate, in the manner prescribed by the regulations, though the total annual assessment should exceed the sum of five hundred sicca rupees above limited. In such cases, the value of the lands for sale is to be computed from the best information procurable of their produce and extent, compared with the amount of the assessment upon them, and the current value of similar lands.*

Board of Revenue empowered to cause the sale of estates of which the sudder jumma *does not exceed five hundred sicca rupees; and in certain cases, estates of higher value in one lot; the surplus produce to be paid to the former proprietor.*

VII. In explanation of the rule contained in Section 3, Regulation V. 1796, for the public sale of estates of considerable extent in distinct lots, it is hereby declared, that this rule is not meant to require the division and distinct allotment of a pergunnah, turuf, *or other established local division. On the contrary, all established local divisions of known limits are, as far as possible, to be preserved entire in every public sale of lands; and to regulate in general the subdivision of landed property, when an estate may be divided at the public sales, and a portion disposed of as a distinct estate.*

Rule contained in Section 3, Regulation V. 1796, not meant to require the division and distinct allotment of a pergunnah, turuf, *or other established division.*

Such divisions to be preserved entire in all sales as far as possible.

VIII. Section 10, Regulation I. 1793, prescribes the general rule and principle for the allotment of the fixed assessment upon all divisions of estates, whether publicly sold, or transferred by the private act of the proprietors, viz. that the assessment upon the portion of the estate to be separated, shall bear the same proportion to its actual produce, as the fixed assessment upon the whole estate may bear to its actual produce. This rule is to be strictly observed in all cases, whether of public sale, or private transfer, or of division between sharers, heirs, or joint proprietors of whatever description; and it is hereby explained, that by the term "actual produce," is to be understood the neat annual rent, or other neat produce receivable by the proprietor, after deducting from the gross rent or other gross produce, the actual expense of collection, and other usual charges of management; inclusive of *poolbundy* or the expense of embankments, and similar incidental expenses, where such may be paid by the proprietor from his gross receipts; but exclusive of his *malikanah* or proprietary income, and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property; or for the allotment of the public assessment thereto in conformity to the prescribed rule. But the above regulation further provides, that the produce to which the general rule of proportion is to be applied, shall be ascertained in the mode that is or may be prescribed by the Governor General in Council; and the *putwaree* accounts furnished in pursuance of clause fourth, of Section 62, Regulation VIII. 1793, for the allotment of the public revenue, agreeably to the principles laid down in Regulation I. 1793, having in many instances proved fallacious or unsatisfactory; and in some instances not being procurable by the

Section 10, Regulation I. 1793, to be strictly observed in all cases of public sale, and private transfer or division.

Explanation of the term "actual produce."

Officer to whom the allotment of the assessment of a portion of an estate may be committed, how to proceed, should he suspect the accuracy of the *putwarree* accounts, or should they not be forthcoming.

the officers of Government; it is hereby enacted, that whenever the collector, or other public officer, to whom the allotment of the assessment upon the portion of an estate may be committed, shall have reason to suspect the accuracy of the village accounts produced by a *putwaree*, in pursuance of clause fourth, of Section 62, Regulation VIII. 1793, or of any other regulation; or if such accounts shall be found to have been fabricated, or altered, or not to be the true accounts, under the process prescribed in clause eighth, of the above section and regulation; or, if in any case the true village accounts of the lands, rents, receipts, and disbursements, may not be forthcoming; but the collector or other officer, under the powers vested in him by clause first, of Section 29, Regulation VII. 1799, or any other regulation, shall have obtained satisfactory accounts for the three past years, of the lands and rents of the entire *zemindaree*, talook, or other estate, with a specification of the *mohaul* or *mohauls* proposed to be separately assessed; he shall adjust the assessment upon such *mohaul* or *mohauls*, under the general rule of proportion, according to the average neat produce (as above explained), ascertainable from the general accounts of the estate so obtained, without further regard to the village accounts than may appear to him proper, with a view to compare and check the other accounts. Provided, however, that in all cases, the collector or other officer shall adopt every authorized measure to obtain the most accurate accounts procurable; and shall fully satisfy himself that the accounts, from which he may compute the neat produce of an estate to be divided and distinctly assessed, are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment; without evidence of which no distinct assessment is to be proposed by any collector, or approved by the Board of Revenue. Provided further, that nothing in this regulation shall be understood to authorize the collectors to fix the amount of the assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue; or to alter the provisions made for the correction of error or collusion in such allotments by Section 25, Regulation XXV. 1793, in cases of private divisions of estates; and by clause second, of Section 29, Regulation VII. 1799, in cases of public sales. Moreover, nothing in this regulation is meant to supersede the rules contained in Section 62, Regulation VIII. 1793, respecting the village *putwarees*; and, with a view to render the same more effectual, clauses third, fourth, fifth, sixth, seventh, and eighth of the above section, are hereby declared to be equally applicable to all other descriptions of native agents employed by the landholders in the management of their estates, or in keeping any accounts of their lands, rents, receipts, or disbursements. If any such agent shall be convicted in the *zillah* court of having collusively fabricated or altered the accounts delivered by him, or of having wilfully delivered any other than the true accounts; the offender, besides the punishment for perjury to which he will be liable under clause eight, of the above section, shall be subject to dismission from the service of the party employing him, by order of the court: and such party shall be positively prohibited from again employing the offender, under whatever penalty the court may think proper to fix, upon consideration of the circumstances of the case.

Nothing in this Regulation to be understood to authorize the collectors to fix the amount of the assessment on a portion of an estate, without the sanction of the Board of Revenue; or to alter the provision of Section 25, Regulation XXV. 1793, and clause second, of Section 29, Regulation VII. 1799.

Rules in Section 62, Regulation VIII 1793, respecting the village *putwarees*, not superseded by this Regulation.

Clauses third, fourth, fifth, sixth, seventh, and eighth, of that section, extended to all native agents employed by landholders in the management of their estates.

Any native agent convicted in a *zillah* court of altering accounts, or not delivering the true ones, to be dismissed from the service of the party employing him, and such party prohibited from employing him again under penalty.

IX. Whenever it may be requisite to dispose of the whole of an estate by public sale for the recovery of an arrear of revenue, and it may not be necessary from the large extent of the estate, or otherwise, under the provisions contained in Regulation V. 1796, and Sections 6. and 7. of the present regulation, to dispose of the estate in two or more lots; there can be no difficulty in bringing the estate to sale immediately on the expiration of the year for which the arrear may be due, in conformity to Section 23, Regulation VII. 1799, and Section 26, Regulation V. 1800; as in such cases no allotment of the assessment is required, and it will be sufficient in the statement to be exhibited at the time of sale, to specify the name of the estate, the *mohauls* composing it as entered in the last-formed public register of estates, and the fixed assessment thereupon. Under the foregoing provisions, and those already made by Regulations VII. 1799, and V. 1800, for the attachment of the lands antecedent to the public sale of them; it is further expected that the collectors will be enabled, without any considerable delay, to adjust the assessment upon the portion of an estate proposed to be sold; and to transmit to the Board of Revenue the statement required by clause second of Section 29, Regulation VII. 1799, to be exhibited at the time of sale in such cases, viz. specifying the *mohaul* or *mohauls* to be sold; their computed rent produce; and the allotment of the *sudder jumma* thereto, in conformity to Section 10, Regulation I. 1793. It may therefore be presumed, that all sales of land for arrears of revenue will hereafter

Clauses to be observed in submitting the necessary statements of lands for sale, in order that the sale may take place within the first or second month after the expiration of the year for which the arrear may be due.

after take place within the first, or at the latest the second month after the expiration of the year for which such arrears may be due: but as instances may occur under clause eighth, of Section 23, Regulation VII. 1799, or some of the provisions in the present regulation, wherein the sale may take place after the second month of the year, and when the proprietor, antecedent to the attachment of his lands for sale, may have granted leases for the current year to farmers, *ryots*, or other tenants; or may otherwise have concluded a settlement with his under-renters for the current year; the Governor General in Council, with a view to obviate any hardship which such under-renters or tenants might sustain from the immediate operation of Section 5, Regulation XLIV. 1793, and Section 3, Regulation III. 1796, and to promote the general encouragement of agriculture, hereby enacts, that, in such cases, the operation of the two sections above mentioned, whereby on a public sale of lands for the discharge of arrears of the public assessment, the engagements, *pottahs*, and leases of the late proprietor (with certain exception) are cancelled from the day of sale, shall be suspended till the close of the Bengal, Fussily, or Willaity year in which the sale may have taken place; and the purchaser during such period shall not be entitled to demand from any under-renter or tenant, of whatever denomination, more than the late incumbent could have legally demanded. Provided, however, that this suspension be not considered applicable to any engagements, *pottahs*, or leases, evidently collusive; nor in any case, unless the sale shall have taken place after the second month of the year according to the era current in the province wherein the lands may be situated.

Operation of Section 5, Regulation XLIV. 1793, and Section 3, Regulation III. 1796, suspended in certain cases.

Suspension not to take place when the engagement is evidently collusive, nor unless the sale shall have taken place subsequently to the second month of the year according to the era current in the district.

X. All purchasers of lands at the public sales are required to attend the collector of the district wherein the lands may be situated, either in person or by their representatives duly authorized, and to execute the usual *coboolеat* and *kisthbundy* for the public revenue assessed upon the lands purchased by them. In cases of doubt as to the real purchaser, or of suspicion that the purchase has been made in opposition to the rules contained in clauses third and fourth, of Section 29, Regulation VII. 1799, the collector is authorized to cause the personal attendance of the alleged purchaser at his *cutcherree*, if resident within his jurisdiction; or, if the purchaser be resident in any other *villah*, the collector of such *villah* is authorized and required to cause the attendance of the purchaser at his *cutcherree*, on the application of the collector in whose district the lands may lie, and to make any examination or inquiry that may be desired by the latter collector, or by the Board of Revenue; to whom a full report is to be made in such cases for the orders of the Governor General in Council, as directed in clause fourth, of Section 29, Regulation VII. 1799. It is further hereby declared, that the collectors are generally empowered to cause the personal attendance of any landholder or other native inhabitant within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry; or to enable them to perform any part of their public duty under the regulations or instructions of the Governor General in Council, or Board of Revenue. But no collector shall cause the personal attendance of any landholder or other person, who may appoint an agent duly authorized to attend for him; if the attendants of the agent so appointed shall be sufficient for the purpose required. Any infringement of this rule will subject the collectors to a prosecution for damages in the civil courts; and whenever they may have occasion to exercise the power now declared to be vested in them, they are to issue regular summonses, under their official seals and signatures, specifying the name, designation, and residence of the party summoned, and the purpose or purposes for which his attendance is required.

Collectors authorized to cause the attendance of any landholder or other native whose attendance may be required.

Not to enforce personal attendance of a principal, provided that an authorized agent will be sufficient.

Collectors subject to prosecution for damages for any infringement of this rule.

Regular summonses under the seal and official signature of the collector to be issued to persons whose attendance may be required by him.

XI. Under the provisions for the sale of entire estates, and assessments of portions of estates, made by this regulation, it can seldom, if ever, be necessary to sell for the recovery of an arrear of revenue a fractional portion of an estate, such as an eight anna, four anna, or other proportion, to be held in joint partnership, or common tenancy, without a previous division of the land, or distinct assessment of the revenue thereupon; and as such sales must depreciate the value of the property sold, from the uncertainty of the assessment, and responsibility attached to the share of a joint undivided estate, no sale of this nature shall hereafter take place for the discharge of an arrear of the public revenue, without the express sanction of the Governor General in Council on a report of any particular case which may appear to require it. The public sale of a share in a joint undivided estate may however in some instances be necessary under decrees of the courts of judicature, or otherwise; and whenever such sales may take place, they are to be made under*

No fractional portions of an estate to be sold as joint undivided property, without the express sanction of the Governor General in Council.

Sales of this nature when necessary under decrees of the courts of justice or otherwise, to be made under the provisions of Regulation XXV. 1793, and other regulations applicable to joint estates in general.

* Rescinded by clause first, Section 2, Regulation XI. 1822.

under the provisions applicable to joint estates in general, as set forth in Regulation XXV. 1793, or any other existing regulation.

All the provisions of Regulation XXV. 1793, explained to be applicable to joint estates held in common tenancy.

XII.† Doubts having arisen as to what descriptions of joint estates the several provisions contained in Regulation XXV. 1793, were meant to be applied, it is hereby explained, that the whole of the said provisions are applicable to joint estates held in common tenancy, viz. where all the sharers have a common right and interest in the whole of the estate, without any separate title to distinct lands or mohauls *forming part of the estate held under one general assessment. Many of these provisions, however, such as those which direct a compact division of the lands, the selection of lands of equal value for the several shares, and other circumstances relative to an equal partition of the estate, have evidently an exclusive reference to the division of landed property between tenants in common, or copartners with equal rights in every part of the estate; and cannot be applied to portions of estates, consisting of specific* mohauls, *or lands, held by purchase or otherwise from the former proprietor, and separable from his estate under the regulations, subject to a proportionate allotment of the public assessment conformably to the rules prescribed in Section 10, Regulation I. 1793; but remaining annexed to the original estate, in conformity to that section, until the distinct assessment of the separable portion shall have been adjusted and separately engaged for, as therein provided. In such cases the provisions in Regulation XXV. 1793, which respect the adjustment of the assessment in conformity to Regulation I. 1793, the accounts to be delivered and examined for this purpose, the responsibility of the whole original estate until a distribution of the assessment shall have been finally determined, and Section 25, reserving to the Governor General in Council the power of ordering a new allotment of the assessment, in the event of its being proved to his satisfaction within three years that the allotment made was fraudulent or erroneous, are alone to be considered applicable; with the further provisions contained in Section 8, of the present regulation. But all new allotments of the assessment in the cases here referred to, as in all other cases whatever, are to be reported for the sanction of the Board of Revenue; and are not to be deemed conclusive or valid till confirmed by that Board; or, in the event of any reduction of the fixed assessment, till approved by the Governor General in Council.*

The provisions in Regulation XXV. 1793, respecting the adjustment of the assessment in conformity to Regulation I. 1793, with the further provisions contained in Section 8, of the present regulation, are alone applicable to the case of a specific mohaul *being sold or transferred.*

No new allotments to be held valid, until confirmed by the Board of Revenue, or in case of a reduction of the jumma, by the Governor General in Council.

XIII. First. *Some of the rules contained in Regulation XXV. 1793, for the division of joint estates in common tenancy, having been found productive of delay in the partition of such estates, the following rules are prescribed in addition thereto, and in qualification of the original rules referred to.*

Additional rules for the division of joint estates in common tenancy.

Second. *On receipt of the written application specified in Section 3, Regulation XXV. 1793, from all the proprietors of a joint undivided estate, the collector, instead of forwarding such application to the Board of Revenue, and waiting their sanction to make the division applied for, shall at once proceed to make the division in the prescribed mode, reporting the same for the information of the Board of Revenue.*

Collectors on receipt of the application specified in Section 3, Regulation XXV. 1793, to proceed to make a division of the estate without waiting for the sanction of the Board of Revenue, reporting it however to them.

Third. *On receipt of the written application specified in clause first, of Section 4, Regulation XXV. 1793, from one, two, or more of the proprietors of a joint undivided estate, the collector shall also proceed to make the division applied for, in the prescribed mode, reporting the same for the information of the Board of Revenue; unless the person or persons in possession of any part of the estate shall deny the right of the party or parties applying for the division, in the form required by Section 5. of the above regulation; in which case the collector is not to proceed to the division until the disputed title be established or admitted, as prescribed by the section in question.*

To proceed in the same manner on receipt of the application specified in clause first, of Section 4, Regulation XXV. 1793.

Fourth. *On receipt of the ameen's report upon the division of the lands and allotment of the assessment required by Section 18, Regulation XXV. 1793, the collector shall, as speedily as possible prepare the partition statement prescribed in Section 19, of the above regulation; and furnish the sharers with copies of it as therein directed. In the event of the whole of the sharers, by a written declaration under their seals and signatures, and attested by four credible witnesses, declaring their satisfaction with the partition statement so communicated to them; or in the event of none of the sharers offering any objection thereto within fifteen days after they shall have respectively received the copies delivered to them; the collector, on receipt of the general declaration of satisfaction in the former case, or in the latter, on the expiration of the period above stated, shall proceed to put the parties in possession of their respective shares, reporting the same to the Board of Revenue;*

On receipt of the report of the ameen on the division of lands required by Section 18, Regulation XXV. 1793, collectors to furnish the sharers with a copy of the statement required by Section 19, of the same regulation.

On their declaring themselves satisfied with the partition, collector to proceed to put them in possession of their respective shares.

† Sect. 12. and 13. are rescinded by Section 2, Regulation XIX. 1814, and clause first, Section 2, Regulation XI. 1822.

Revenue; and submitting to them a copy and translation of the partition statement and allotment of the assessment. But such allotment of the assessment shall not be deemed conclusive until it shall have been confirmed by the Board of Revenue, who are authorized to make any alterations therein which may appear to them necessary for the purpose of carrying into effect the proportionate rule of allotment prescribed in Section 10, *Regulation I.* 1793; *and Section* 8, *Regulation XXV.* 1793.

Collector how to proceed in case of objections to the partition.

Fifth. *In the event of any objections to the partition of the statement being offered by the sharers, or any one of them, within the period of fifteen days specified in the preceding clause, the collector is not to put the parties in possession; but is to transmit without delay a copy and translation of such objections to the Board of Revenue; together with a copy and translation of the partition statement; and of the whole, or such part of the ameen's report as may be applicable to the points objected to; and such further information as may be necessary to enable the Board to form a satisfactory opinion of the case. Sections* 19, 20, *and* 21, *of Regulation XXV.* 1793, *are to be applied to the determination of the Board of Revenue in such cases, but with the following qualifications, viz. The report required to be made by Section* 19, *to the Governor General in Council shall be discontinued, except in cases of appeal; or of a reduction of the fixed assessment; secondly, the period fixed by Section* 20, *for an appeal to the Governor General in Council, from the determination of the Board of Revenue, shall be hereafter limited to one month from the communication of their decision to the parties; and thirdly, in the event of the partition proposed by the collector being confirmed by the determination of the Board of Revenue, the collector shall proceed to put the parties in possession according to such decision, notwithstanding the appeal to the Governor General in Council; subject to such alterations in the division of the lands, or allotment of the assessment, as may be ordered by the ultimate decision of the Governor General in Council.*

Board of Revenue to decide on the objections, except in cases of appeal or of reduction of the fixed assessment, when the decision is to rest with the Governor General in Council.

Period for appeals limited to one month.

In the event of the division being approved by the Board of Revenue; the collector to proceed to put the parties in possession, notwithstanding that an appeal may be made to the Governor General in Council.

Sixth. *No objections from the sharers to the partition communicated to them by the collector in the first instance shall be received by the Board of Revenue after the prescribed period of fifteen days, without good cause for the delay being shown to their satisfaction; nor will any appeal from the determination of the Board of Revenue be admitted by the Governor General in Council after the limited period of one month, unless he shall be entirely satisfied with the cause assigned for not having preferred the appeal to him within that period.*

No objections to the partition made by the collector shall be received by the Board of Revenue after fifteen days, unless good cause be assigned for the delay; nor by the Governor General in Council from the decision of the Board of Revenue after one month, except on the same grounds.

Seventh. *Whenever the objections to the collector's partition, which may be preferred to the Board of Revenue, or the appeal from the determination of that Board to the Governor General in Council, shall clearly appear to be groundless, vexatious, and litigious, it shall be competent to the Board of Revenue in the former case, and in the latter to the Governor General in Council, to impose such fine upon the defaulter as may be deemed proper on consideration of the circumstances of the parties and nature of the case. Such fine shall be recovered by the same process as is prescribed for the recovery of arrears of revenue.*

Governor General in Council, or Board of Revenue, when objections appear groundless, vexatious, or litigious, to impose a fine on the defaulter.

Eighth. *If any of the sharers in a joint undivided estate shall by withholding the requisite accounts and papers, or by any other voluntary act, impede or oppose the division of the estate, when the same may have been ordered and proceeded upon in the mode prescribed by the regulations, the party or parties so offending shall on the report of the collectors and Board of Revenue, be liable to such fine as the Governor General in Council, on consideration of the circumstances of the case, may judge proper to impose, and the fine so ordered shall also be levied in the mode prescribed by the regulations for the recovery of arrears of revenue. It is hereby further explained, that whenever a daily fine may be imposed, under any part of the regulations, for the purpose of causing the delivery of accounts or otherwise; and such fine may be imposed in the first instance by the collectors, or by the Board of Revenue, subject to the confirmation of the Governor General in Council; the operation of such daily fine, provided it be approved by the Governor General in Council, or of such part thereof as may receive his approbation, shall commence from the date when the fine may have been first notified to the party on which it is imposed; unless, in any case, it should be otherwise ordered by the Governor General in Council; or be otherwise provided by the original order of the collector or Board of Revenue.*

Governor General in Council will impose a fine on any person withholding accounts or otherwise obstructing the division of an estate.

Daily fine for causing the delivery of accounts or otherwise to commence from the date when it may have been first notified to the parties, unless otherwise ordered or provided.

XIV. The rules contained in Regulation VIII. 1793, for the separation of certain *talookdars*, the actual proprietors of the lands composing their *talooks*, from the *zemindarees*

All *talookdars* who may consider themselves en-

titled to have their *talooks* separated to apply to the collector of the *zillah* within one year from the date of this regulation, after which period no *talook* will be considered separable, unless such application shall have been made.

to which they were attached at the period of the decennial settlement, having been construed to entitle *talookdars* of that description, who did not apply for separation at the time of the decennial settlement, to be separated on their application at any subsequent period; and it being necessary for the security of purchasers at the public sales that some period should be fixed for the operation of the above rules, to prevent their being at all times liable to deprivation of a part of their purchases; it is hereby required, that all *talookdars* who as proprietors of the lands composing their *talooks*, may consider themselves entitled under Section 5, Regulation VIII. 1793, or any other part of that regulation, to be separated from the *zemindarees* to which their *talooks* are attached, shall prefer a written application to the collector of the *zillah* in which their *talooks* may be situated for the separation thereof, within one year from the date of this regulation, under penalty of forfeiting all title to separation under Regulation VIII. 1793, if they shall omit to apply as directed within the prescribed period; at the expiration of which the operation of the section abovementioned shall be considered extinct with regard to all *talooks* for which no claim to separation may have been then preferred; and such *talooks* shall thereafter be considered as dependant *talooks*, not entitled to be separated from the *zemindarees* to which they may be attached; though in other respects the rights of the *talookdars* are not meant to be in any degree affected by this regulation. It is further hereby declared, that the rules regarding separable *talooks* contained in Regulation VIII. 1793, were never meant to be applied to any new *talooks* constituted since the period of the decennial settlement. By Section 9, Regulation I. 1793, the *zemindars* and all other proprietors of land have been declared at liberty to transfer by sale, gift, or otherwise, their proprietary rights in the whole or any portion of their respective estates; but by Section 10, of the same regulation, it is required that all such transfers be notified to the collector of the *zillah*, that the fixed *jumma* assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed; that the names of the proprietors of each share, and the *jumma* assessed thereon, may be entered upon the public registers; and that separate engagements for the payment of the *jumma* assessed upon each share may be executed by the proprietors, who are thenceforward to be considered separate proprietors of distinct estates; but until such notification and separation shall have been made, the whole of the estate is declared responsible to Government for the discharge of the fixed *jumma* assessed upon it, in the same manner as if no transfer had taken place. This declaration is also repeated in Section 28, Regulation XXV. 1793, which contains the specific rules established by Government for the division of estates paying revenue, and the allotment of the *jumma* upon the several portions thereof. If, therefore, any *zemindar* shall have disposed of his proprietary rights in any portion of his *zemindaree*, subsequently to the promulgation of the regulation above mentioned, whether under the denomination of an independent *talook* or otherwise, and the *talookdar* or other person to whom the portion of an estate may have been so transferred, shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the regulations, such transfer, as far as respects the rights of Government, must be considered altogether invalid; and if the land, so privately transferred, but not separately assessed, should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away. In such cases the lands transferred, until publicly registered and separately assessed, form part of an undivided estate; and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate. Provided, however, that nothing in this section be considered applicable to dependant *talooks*, or other tenures dependant on the estate to which they are attached, and from which, by their title-deeds or otherwise, they are not entitled to be separated as a distinct estate. Section 6, Regulation XLIV. 1793, authorizes and confirms such tenures, subject to the restrictions contained in Sections 2. and 5. of that regulation; with the explanation of the latter in Section 7, Regulation IV. 1794: and clause fifth, of Section 29, Regulation VII. 1799.

Rights of the *talookdars* in other respects not meant to be in any degree affected by this rule.

Rules contained in Regulation VIII. 1793, regarding separable *talooks*, declared not applicable to any *talook* constituted since the decennial settlement.

Transfer of the proprietary right in portions of estates since the date of Regulation XXV. 1793, without observance of the rules contained in that regulation, and Regulation I. 1793, declared invalid as far as respects the rights of Government.

Nothing in this section to be applied to dependant *talooks*, or other dependant tenures.

XV. The whole of the provisions contained in this regulation, as applied to Regulation VII. 1799, are to be considered equally applicable to Regulation V. 1800, whereby the rules contained in Regulation VII. 1799, were extended to the province of Benares; and in like manner the provisions in this regulation which have reference to Regulation XXV. 1793, are to be considered in force within that province, under the extension of the above regulation to it by Regulation XXVI. 1795.

Rules contained in this regulation as applied to Regulations XXV. 1793, and VII. 1799, equally applicable to the corresponding regulations for the province of Benares.

A. D. 1801. REGULATION IX.

A REGULATION *to limit the Operation of Section* 15, *Regulation VII.* 1799, *upon Persons employed in the Salt Manufacture, or in the Provision of the Company's Investment; and to explain and amend Section* 2, *Regulation XI.* 1796, *with respect to Persons so employed, and others charged with Resistance of Process under that Regulation.*—PASSED *by the Governor General in Council, on the* 31*st July* 1801 *corresponding with the* 17*th Sawun* 1208 *Bengal era; the* 6*th Sawun* 1208 *Fusily; the* 17*th Sawun* 1208 *Willaity; the* 6*th Sawun* 1858 *Sumbut; and the* 19*th Rubbee-ul-Awul* 1216 *Higeree.*

Preamble.

SECTIONS 19, 20, and 21, of Regulation XXIX. 1793, contain provisions for preventing interruption to the salt manufacture, by the arrest and confinement of persons employed in it during the manufacturing season, viz. from the beginning of the month of Kautic, to the end of the month of Assar; on account of arrears of rent, or other claims of a civil nature; as well as on account of criminal charges for bailable offences; except in particular cases, wherein the personal attendance of persons employed in the salt manufacture may appear to the *zillah* judges or magistrates to be indispensibly necessary for the purpose of justice. Similar provisions were made by Sections 9, 10, and 12, of Regulation XXXI. 1793, with respect to weavers and others employed in the Company's investment, for the purpose of preventing undue interruption to the commercial concerns of the Company. At the same time, full provision was made by the above regulations, for enabling proprietors and farmers of land to recover the rents due to them from their under-tenants, employed either in the salt manufacture, or in any part of the Company's investment, by empowering them to distrain and sell, under certain restrictions, the crops and personal property of their under-tenants in arrear, or to sue for the recovery of the amount due to them in the courts of *dewanny adawlut*; or to state their claims to the salt agent or commercial resident, who were authorized to satisfy the same, or to cause the same to be satisfied by the under-tenant in arrear; provided the latter should be at the time in the actual employ of the Company; so that neither his labour on their account might be interrupted, nor any arrear of rent withheld which might be justly due for the land tenanted by him. It was not therefore intended that *molungees* and others employed in the manufacture of salt, or weavers and others employed in the provision of the Company's investment, should be included in the rule enacted by Section 15, Regulation VII. 1799, whereby proprietors and farmers of land, to whom an arrear of rent may be due from their under-tenants, which cannot be realized by a distress of personal property, are authorized to cause the arrest of the defaulter and his surety in the mode therein prescribed, and their confinement after a summary inquiry before the judge of the *zillah dewanny adawlut*. But from the general terms of this latter rule, a doubt has arisen, whether it was not meant to supersede the former provisions in Regulations XXIX. and XXXI 1793, respecting persons employed in the manufacture of salt, or in the Company's investment, who, as tenants of land, might become liable to the operation of

Section 15, Regulation VII. 1799. It has also been doubted whether the rule contained in Section 2, Regulation XI. 1796, for apprehending persons charged with resistance to the process of a *nillah* or city magistrate, or police officer, could in any case admit of bail being taken from persons so charged, whether employed in the manufacture of salt, or the provision of the Company's investment, or otherwise. To remove all room for doubt on these points, therefore, and to amend the rule last mentioned, in cases where the judgments of the magistrates may be within the powers vested in them, under Section 8, Regulation IX. 1793; His Excellency the Most Noble the Governor General in Council has enacted the following regulation, to be considered in immediate force, throughout the provinces of Bengal, Behar, and Orissa; as well as in Benares, as far as it may be applicable to that province.

The summary process authorized in clause first to sixth of Section 15, Regulation VII. 1799, shall not be applicable to under-tenants employed in the salt manufacture, during the manufacturing season.

II. The summary process authorized by clauses first, second, third, fourth, fifth, and sixth, of Section 15, Regulation VII. 1799, for the arrest and confinement of defaulting under-tenants of land and their sureties, shall not be applied to under-tenants employed in the manufacture of salt during the manufacturing season, as described in Section 18, Regulation XXIX. 1793, viz. from the commencement of the month of Kartic, to the end of the month of Assar. The rent payable by persons so employed can seldom be so considerable as not to be recoverable by distraining their crops and other personal property authorized by Regulations XVII. 1793, XXXV. 1795, and VII. 1799, provided the distress be levied in due time; but if in any instance an arrear of rent should be due from a person employed in the manufacture of salt which cannot be realised by distraining his crops and other personal property (and that of his surety if he shall have given security), the proprietor or farmer of land to whom such arrear may be due, or his authorized representative, is to proceed for the recovery of it in the mode directed by Section 19, Regulation XXIX. 1793, which is still to be considered in full force, as well as Sections 20, and 21. of the same regulation, notwithstanding any part of Regulation VII. 1799, or any other regulation passed antecedent to this date.

Such persons to be proceeded against as directed in Section 19, Regulation XXIX. 1793, and other sections.

Sections 9, 10, and 12, of Regulation XXXI. 1793, still in force with respect to weavers or others employed in the provision of the Company's investment.

III. Sections 9, 10, and 12, of Regulation XXXI. 1793, are also to be still considered in full force, with regard to weavers and others employed in the provision of any part of the Company's investment, during the period they may be actually so employed. Proprietors and farmers of land to whom an arrear of rent may be due from persons so employed, are to proceed for the recovery of it in the mode directed by clause second, of Section 9, of the above regulation, and the further rules for distraining the crops and personal property of defaulting under-tenants contained in Regulations XXXV. 1795, and VII. 1799. The summary process for arrest and confinement authorized by the six first clauses of Section 15, Regulation VII. 1799, is hefeby declared not applicable to any persons who may be under engagements to the Company for any part of their investment, or who may be actually employed in providing the same. When such engagements may have been fulfilled, however, or whenever any weaver or other person in the Company's employ may have satisfied all demands upon him on the part of the Company, he will be liable, in common with other under-tenants, to be proceeded against for arrears of rent, as authorized by the above regulation, or by any other regulation applicable to persons not in the Company's employ. The restriction contained in Section 12, Regulation XXXI. 1793, that the persons of weavers in the employ of the Company shall not be liable to attachment in execution of decisions of the civil courts in favour of private merchants or other individuals, was not meant to restrict the confinement, under judicial process, of persons who may have satisfied all just demands upon them on the part of the Company, and who may not have taken new advances from the Company, or entered into new engagements with them, the fulfilment of which would be frustrated by the confinement of the contracting party. The several courts of justice are accordingly to observe this explanation of the rule above mentioned, in all cases to which it may be applicable.

Such persons to be liable to the ordinary process, when their engagements have been fulfilled.

Explanation of Section 12, Regulation XXXI. 1793.

Explanation of Section 2, Regulation XI. 1796, with respect to resistance to the process of the magistrates or police officers.

IV. The rule contained in Section 2, Regulation XI. 1796, for apprehending persons charged with resistance to a warrant, order, or other process of a *nillah* or city magistrate, or a police officer, was not meant to restrict the magistrates from admitting to bail the person so charged in cases not attended with aggravating circumstances; or in any case where the magistrate, upon receipt of the charge, or in the course of his inquiry respecting it, or after

he shall have passed judgment upon it, during the reference required by the above regulation to the court of Nizamut Adawlut, may judge it proper to admit the defendant to bail: on the contrary, as resistance of process is not included in the specification of crimes declared not bailable by Section 7, Regulation IX 1793, and as the penalty provided for this offence by Section 2, Regulation XI. 1796, is a forfeiture of property, or fine, (with eventual imprisonment or corporal punishment if the fine be not paid,) it is hereby declared, that persons apprehended on a charge of resistance of process under the above regulation, or under any other regulation, and who may not be accused of any aggravating crime, in addition to the resistance of process, such as is declared not bailable by Section 7, Regulation IX. 1793, or Section 4, Regulation XVI. 1795, are to be admitted to bail until a final decision shall have been passed upon the charge; provided the bail offered by them shall appear to the magistrate or other public officer to whom the charge may be preferred, sufficient for securing the appearance of the person so charged during the prescribed investigation of the case. Under this declaration, clause fourth, of Section 20, Regulation XXIX. 1793, and clause fourth, of Section 10, Regulation XXXI. 1793, will of course be applicable to warrants on a charge of resistance of process only, which may be issued against any person employed in the salt manufacture during the manufacturing season, or against any person actually employed in providing any part of the Company's investment.

In what cases such persons may be admitted to bail.

To what cases Section 20, Regulation XXIX. 1793, and Clause fourth, Section 10, Regulation XXXI. 1793, are applicable.

V. It is further hereby provided, that in cases of resistance of process not attended with any aggravating circumstances, wherein the magistrate before whom the charge may be tried, shall judge it sufficient to inflict the punishment which he is authorized to inflict for petty offences under Section 8, Regulation IX. 1793, it shall not be necessary to transmit his proceedings for the confirmation of the Nizamut Adawlut, as required by clause fifth, of Section 2, Regulation XI. 1796, but the judgment of the magistrates shall be executed in such cases, without reference to the Nizamut Adawlut, subject to the general rule contained in Section 17, Regulation IX. 1793, whereby the judgment of the several *zillah* and city magistrates are liable to revision by the courts of circuit; and if appearing to have been passed upon insufficient grounds, to be altered or reversed by the court of Nizamut Adawlut. In the execution of this rule, the judges of the courts of circuit, to whom the original proceedings of the magistrates are submitted at the successive jail deliveries, are expected to examine with attention the proceedings of the magistrate in any case wherein a petition of complaint may be preferred to them at the jail delivery next ensuing after the magistrate's decision upon the case; and to make the report directed by the above section to the court of Nizamut Adawlut, if the circumstances of the case shall appear to require it; or, if otherwise, to inform the party complaining by a written order upon his petition.

Magistrates may inflict punishment in certain cases of resistance without the reference required by clause fifth, Section 2, Regulation XI. 1796, but subject to the general rule contained in Section 17, Regulation IX. 1793.

In such cases, the judges of the courts of circuit are to examine the proceedings of the magistrates with attention, and report thereon.

A. D. 1803. REGULATION XXVI.

A REGULATION *prescribing Rules for the Sale and Division of Lands paying Revenue to Government, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.*—PASSED *by the Governor General in Council, on the 24th March* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

WHEREAS it is provided in Regulation XXVII 1803, that the lands of defaulting proprietors and farmers of land, who may have entered into engagements with Government for the payment of revenue, as well as the lands of their sureties shall be liable to be sold for the liquidation of arrears of revenue due from the defaulters to Government: and whereas the Board of Revenue are empowered, by the said regulation, in instances of embezzlement, or misappropriation of the funds from which the public revenue may be payable to Government, by any landholder, or in other cases in which it may be deemed advisable to recommend to the Governor General in Council the sale of the lands of the defaulter and his surety, under the rules prescribed by this regulation: And whereas the lands of persons paying revenue to Government, as well as the lands of persons holding lands exempt from the payment of revenue, are also liable to be sold in satisfaction of decrees of the courts of justice. And whereas it is necessary, that rules should be prescribed for the sale of lands in the cases above stated: And whereas it is essential to the security of the public revenue due from lands paying revenue to Government, that the *jumma* of such lands, whether sold on account of arrears of revenue to Government, or in satisfaction of decrees of the courts of justice, should be adjusted conformably to the principles prescribed in Section 37, Regulation XXV. 1803: And whereas it is expedient, that rules should be established for enabling the officers of Government to apportion the *jumma* of lands assessed with public revenue which may be sold for the purposes above specified, and for empowering the Board of Revenue, the collectors of the revenue, and the courts of justice, to countermand or postpone the sale of lands, in the event of the arrears of revenue demandable from the defaulter, or of the amount of the decree, being discharged previously to the sale being made, or for other sufficient cause: And whereas it is essential, in dividing landed property paying revenue to Government into two or more distinct estates, that the share or shares, comprised in each estate, should be rendered as compact as circumstances may admit, in order to obviate disputes, equally prejudicial to the interests of the proprietors and of Government, regarding boundaries, water, and other matters, which necessarily result where the lands belonging to different estates circumscribe each other, or are intermixed; And whereas, in such cases, justice to the sharers, and the security of the resources of the state, require, that the public revenue should be apportioned on each of the estates into which the property may be divided, agreeably to the rules prescribed in Regulation XXV. 1803; And whereas it is also necessary, for the convenience of the proprietors of two or more estates, which may have originally formed specific and ascertained proportions of the same *zemindaree, talook*, or other tenure, and for preventing

the divisions of landed property becoming too numerous and minute, that the proprietors of such estates should be allowed to unite them into one estate; the following rules, applicable to the several cases above specified, are accordingly enacted.

Rules for the sale of lands paying revenue to Government, for the recovery of arrears of revenue or other public demand.

Collectors how to act when a sale of lands shall become necessary.

II°. *The following rules are prescribed for the sale of lands paying revenue to Government, for the recovery of arrears of public revenue, or other public demand.*

First. *When a sale of lands paying revenue to Government, shall become necessary, for the recovery of an arrear of revenue, or other public demand, the collector shall transmit to the Board of Revenue an accurate statement of the lands proposed to be sold, sufficient to make good the arrear due from the defaulter, and the interest thereon to the time of sale; together with a statement for the allotment of the public assessment on such lands, prepared in conformity to the rules prescribed in Section 3, Regulation XXV.* 1803. *The rules contained in the section abovementioned are to be invariably and strictly adhered to, in every instance of adjustment of the public revenue becoming necessary upon lands disposed of by public sale.*

Collectors and others to be careful to select only such lands as may be sufficient to produce the amount for which the lands are to be sold.

Second. *The collector, or other officer, to whom a sale of lands may be committed, shall be careful to select for the sale such lands as, from the current value of similar lands considered with all the information he may possess respecting those to be sold, may appear likely to sell for the amount to be recovered by the sale, and no more, with the exceptions specified in the three following clauses.*

Cases in which entire estates may be sold, although more than sufficient to produce the amount for which they are to be sold.

Third. *Whenever it may be necessary to have recourse to a public sale of land, for the recovery of an arrear of revenue, or other public demand, and the total sudder jumma or annual assessment of the estate shall not exceed five hundred rupees of the currency in which the settlement of such estate may have been concluded, instead of selling a portion of such estate, in conformity to the rule mentioned in the foregoing clause, the Board of Revenue are authorized, if they shall judge the same advisable, to sell, or cause to be sold in the mode prescribed by this, or any future regulation, the entire estate in one lot. If in such cases, the amount offered shall exceed the sum due, with interest, and the charges of sale, the overplus shall be paid to the former proprietor, unless, by any special order, it may be otherwise directed. The Board of Revenue are also authorized, whenever the amount to be recovered by a sale of land shall be in such proportion to the computed value of the whole estate as may be calculated to leave only an inconsiderable surplus on the sale of an entire estate, to make, or cause to be made, the sale of the entire estate, in the manner prescribed by this or any future regulation, although the total annual assessment should exceed the sum of five hundred rupees above limited. In such cases, the value of the lands for sale shall be computed from the best information procurable of their produce and extent, compared with the amount of the assessment upon them, and the current value of similar lands.*

In cases of public sales of lands, distinct mohauls shall be sold in distinct lots.

Fourth. *In all cases of public sales, the lands disposed of, if consisting of distinct* mohauls, *separately assessed for the public revenue, shall be sold in distinct lots, according thereto; or though not separately assessed, if the lands to be disposed of be of considerable extent, and so situated that they can, without much delay or difficulty, be divided into distinct lots, they shall be so divided, and sold accordingly; due regard being had, in selecting and assessing the lands so allotted, to the rules laid down in Section 3, Regulation XXV.* 1803, *as far as the same may be applicable: provided, nevertheless, that nothing contained in this regulation shall be understood to require the division of an estate in instances wherein the proprietor may, by a written application, desire to have the whole sold in one lot, or wherein, from local circumstances, it may appear more for the advantage of the proprietor, that the whole be sold in one lot.*

An estate not to be divided, when the proprietor shall desire to have the whole sold in one lot, or when local circumstances may render a division inexpedient.

Foregoing rule not meant to require the division and distinct allotment of established local divisions.

Fifth. *The rule prescribed in the foregoing clause is not meant to require the division and distinct allotment of a* pergunnah, turuff, *or other established local division. On the contrary, all established local divisions of known limits are, as far as possible, to be preserved entire in every public sale of lands; and to regulate, in general, the subdivision of landed property, when an estate may be divided at the public sales, and a portion disposed of as a distinct estate.*

* Rescinded by clause first, Section 3, Regulation XI. 1822.

In cases where the amount offered for any distinct lot or lots is sufficient to make good the arrear due, the remaining lots shall not be disposed of.

Rule in cases where the amount bid for a lot exceeds the amount to be recovered.

III. In cases where the lands to be disposed of shall have been divided into separate lots, in the manner directed in clause fourth, Section 2. of this regulation, if the amount bid for the first lot put up, or for any number of lots, less than the whole, be sufficient to make good the sum due, with the costs of sale, the remaining lots shall not be disposed of. But if the amount bid for any lot shall exceed the sum due, and costs of sale, the entire lot shall notwithstanding be disposed of, and the excess, above the sum due and costs, (unless otherwise directed) be paid to the proprietor of the lands, who, by this means, will receive the full value of his property; whereas, were the sale to be restricted to a portion of the lot, the purchaser, from the delay and difficulties of a division, would probably be deterred from offering so advantageous a price as he would be induced to offer for the entire lot.

When lands are ordered to be sold, the proprietors or farmers shall attend the ameen, or other officer, directed to take charge of the lands, either in person, or by an agent, with their accounts.

IV. First. *When lands are ordered to be sold under Regulation XXVII. 1803, the proprietor or (if the lands be let in farm) the farmer of lands, ordered to be sold, upon receiving a written order for that purpose from the collector of the* zillah, *under his official seal and signature, shall attend the ameen, or other officer, directed to take charge of the lands, in person, or order an agent, duly empowered and informed, to attend him, if the collector shall deem it sufficient to require the attendance of an agent only, with any accounts of the collections and* jumma *of the lands ordered to be sold, or the estate of which they may form a part, for the purpose of adjusting the* jumma *at which the lands are to be disposed of. If the proprietor or farmer shall omit or refuse to attend, or to cause an agent of the description above specified to attend by the time prescribed in the collector's requisition, with the accounts and information required, the Board of Revenue are empowered to impose such daily fine upon him, until he shall comply with the collector's requisition, as they may think adequate to his situation and circumstances in life; reporting the amount, for the confirmation of the Governor General in Council. The proprietor, or farmer, shall likewise cause the* putwarees *to attend the* ameen, *or other officer, to assist him in making the collections, or for the purpose of furnishing him with the accounts and information necessary for adjusting the* jumma, *as required by Section 37, Regulation XXV. 1803; as well as any other of the* zemindaree *officers, whose assistance or attendance may be required for the above purposes, upon receiving a written requisition from the collector to that effect; and, in the event of his omission or refusal, he shall be subject to the same penalty as for a breach of the rules above prescribed.*

Board of Revenue authorised to impose fines on proprietors or farmers omitting or refusing to attend, or to send an agent.

Proprietors and farmers shall likewise cause the putwarees *and any other of the* zemindaree *officers to attend the* ameen *when required, subject to a similar penalty, in case of omission or refusal.*

Second. *With the view of providing further against undue impediments in the sale of portions of estates, by the conduct of the proprietors, it is hereby declared, that, whenever it shall be established, by the reports of the collectors and the Board of Revenue, and the evidence taken by them, to the satisfaction of the Governor General in Council, that any proprietor of land has received the prescribed requisition for the accounts actually kept by him, or by his agents for him, of his estate, or of the portion of his estate which may be proposed for public sale, and that such proprietor has refused, or wilfully neglected, to furnish the accounts, required for adjusting an allotment of the assessment of his entire estate upon the proportion proposed to be sold, the Governor General in Council will order the immediate sale of the whole estate, instead of a portion of it, as intended, in satisfaction of the demand to be recovered; provided, that, in such cases, the sale shall be made, after advertisment, in conformity to the general rules for the sales of land; and if the proprietor, at any time antecedent to the fixed day of sale, shall deliver the accounts required of him, or otherwise conform to the requisition made to him, the actual sale of the entire estate shall not take place, but, instead thereof, and as a punishment to the defaulter for withholding the accounts in his possession, it shall be competent to the Governor General in Council to impose such fine on the defaulter as he may judge proper, on consideration of the circumstances of the case, in addition to any fine which may have been previously imposed on the defaulter, under the present or any future regulation: provided further, that if, in any case, a proprietor of land, who shall have been required to produce the accounts of his estate for the purpose of adjusting the public assessment upon a portion of it for sale, shall, by pertinaciously withholding such accounts, voluntarily cause the sale of his entire estate, under the provision now made for such cases, the surplus produce of the sale, after discharging all demands for which*

The whole estate will be sold, in cases where the proprietor shall refuse or neglect to furnish the accounts required for allotting the assessment on the portion proposed to be sold.

When the requisite accounts shall be furnished previously to the day of sale, the Governor General in Council competent to commute the sale for a fine.

When a sale shall actually take place, any surplus produce of such sale to be returned to the late proprietor.

which the sale may be ordered, shall be paid to the late proprietor, notwithstanding his default, unless otherwise specially directed. All fines imposed under this clause shall be recovered under the rules prescribed for the recovery of arrears of revenue.

All fines imposed under this clause, recoverable in the same manner as arrears of revenue.

At what places sales of land which may be ordered to take place, under this regulation, shall be made.

Publication of the notice of such sale where to be made, and what it is to contain.

V. All sales of lands, paying revenue to Government, which may be disposed of under this regulation, shall be made by the collector of the zillah, in his public office, or at Calcutta, in the office of the Board of Revenue, under the superintendence of their secretary, according as the Governor General in Council may direct. Previously to any such sale taking place, a publication shall be made in the Persian language, and in the Hindoostance language and Nagree character, specifying the mohaul or mohauls to be sold, the jumma at which the lands, or each lot of them, if they are ordered to be sold in two or more lots, will be disposed of, and the place, date, and hour of the day, fixed for the sale, and the proportion of the revenue payable on account of the year in which the sale of the lands may take place, for which the purchaser is to be responsible; or, if the exact proportion cannot be ascertained, the rules by which the amount of it is to be adjusted. The publication shall be fixed up in some conspicuous place in the court-room of the adawlut of the zillah, the office of the collector, the principal town or village in the lands to be sold, and the office of the secretary to the Board of Revenue. The publication shall be fixed up at the several places abovementioned, for a time not less than one month before the sale takes place. All expenses attending the sale, and the appointment of the ameen, or other native officer, directed to be employed in collecting the rents and revenues of lands ordered to be sold under Regulation XXVII. 1803, conformably to Sections 30 and 31 of the said regulation, shall be deducted from the proceeds of the sale. The other conditions of the sale contained in Sections 7 and 8 of this regulation, as well as any other stipulations which may be made, shall likewise be fixed up in a conspicuous part of the room in which the sale may be directed to take place, on the day of sale, and during the three days preceding it.

Expenses of the sale in what manner to be defrayed.

Remaining conditions of sale where and for what period to be fixed up.

VI. First. Wherever the portion of an estate, paying revenue to Government, not before distinctly assessed, may be disposed of, a detailed statement shall be exhibited, at the time of sale, for the information of persons desirous of becoming purchasers, specifying the mohauls to be disposed of, (to be stated as clearly and accurately as possible,) their rent produce in the past year, and the allotment of the sudder jumma thereto, in conformity to Section 37, Regulation XXV. 1803. An authenticated copy of the statement above mentioned shall be delivered to the purchaser; with this express notification, that Government do not guarantee to the purchaser any thing beyond the right of the former possessor in the land sold; but if the purchaser, within one year from the date of his purchase, shall discover and establish, to the satisfaction of the Governor General in Council, through the collector of the zillah and the Board of Revenue, that the accounts upon which the sudder jumma, or the assessment on the land sold much higher than it ought to have been, under the rules prescribed by Section 37, Regulation XXVII. 1803, the Governor General in Council will cause a new allotment of the assessment on the land sold, and on the remainder of the estate from which such lands may have been separated, according to the prescribed rules. The collectors shall further allow all purchasers to have free access to the accounts on which the assessment upon the lands sold to them may have been adjusted; and, on receiving any claims, under this clause, within the period therein limited, shall investigate the same, in the presence of the landholder or farmer who may have furnished the accounts or his authorized agent; and report the result, with their opinion, to the Board of Revenue; who, after calling for any further information they may judge necessary, shall decide upon the claim of the purchaser, if they shall not consider him entitled to any alteration in the assessment, leaving him to appeal, if dissatisfied, to the Governor General in Council; or, if they shall be of opinion that he is entitled to an alteration in the assessment of the lands purchased by him, shall report the same to the Governor General in Council, for his final determination. The above provision, which is made for the security and encouragement of the purchasers at the public sales, as well as to preserve a just assessment of the public revenue on lands sold, is not to be understood to authorize, in any case, (except to rectify an evident and material mistake, which the purchaser may consent

Statement to be exhibited to bidders at the public sales, when the portion of an estate, not before distinctly assessed, may be disposed of.

Any copy to be delivered to purchaser, With the notification herein prescribed.

Collectors to allow purchasers to have access to accounts on which the assessment on lands sold have been adjusted.

Collectors how to proceed when objections or claims may be preferred to them by purchasers, under this regulation.

Board of Revenue how to proceed when such cases shall be reported to them.

Governor General in Council to determine on any alterations in the assessment.

Above provision not meant to authorise any

consent to have rectified, rather than relinquish his purchase, and receive back the amount paid by him, with interest) any addition whatever to the assessment declared, at the time of sale, on the portion of lands sold; nor is it to be applied retrospectively to any public sales which may have taken place, before the promulgation of this regulation, unless, in any particular instance, from manifest fraud or error in the accounts upon which the sale may have been made, the Governor General in Council should, on consideration of the circumstances of the case, think it equitable and proper to order otherwise; and the Governor General in Council hereby notifies, that he will not admit any claim whatever, founded on past sales, unless the same shall have been already preferred, or shall be preferred to him, or the Board of Revenue, within one year from the promulgation of this regulation.

Nor is this rule to be applied retrospectively.

Limitation to all claims founded on past sales.

Second. Whenever it may be requisite to dispose of the whole of an estate paying revenue to Government, by public sale, for the recovery of an arrear of revenue, and it may not be necessary, from the large extent of the estate, or other sufficient cause, to dispose of the estate, in two or more lots, it will be sufficient, in the statement to be exhibited at the time of sale, to specify the name of the estate, the mohauls composing it, and the assessment thereupon.

What the statement, to be exhibited at the time of sale, is to contain, when whole estates are to be disposed of.

VII. A deposit of fifteen per cent. on the amount of the purchase money, shall be made at the time of the sale, by every purchaser of land which may be disposed of under this regulation. If the purchaser shall omit to discharge the purchase money within the period which may be stipulated, he shall forfeit the deposit to Government, and the lands shall be sold at his risk and expense. If the lands shall be disposed of at a lower price than that offered by the first purchaser, he shall make good the deficiency. If a profit shall arise on the second sale, it shall be carried to the credit of the defaulter, or of Government if the lands be sold on the public account under Section 25, Regulation XXVII. 1803. If the first purchaser shall refuse or omit to make the deposit, or to pay, within the required time, the amount of the deficiency, and the expenses arising on the re-sale, after being served by the collector of the zillah in which he may be or reside, or by the Board of Revenue if he shall be in Calcutta, with a written demand for the amount, similar to that directed in Sections 3, 7, and 10, Regulation XXVII. 1803, to be served on proprietors and farmers of land from whom arrears of revenue are due, such defaulting purchaser shall be considered in the same predicament as the sureties of proprietors or farmers of land who omit or refuse to discharge any sum of money due from them, and he shall be proceeded against accordingly by the collector of the zillah in which he may be or reside.

A deposit of fifteen per cent. to be made on the amount of the purchase money.

Penalty to which purchasers will be liable who shall not pay the purchase money by the stipulated period.

How such penalty is to be levied.

VIII. The purchasers of lands sold under this regulation shall not be held responsible for any arrears or suspensions of revenue which may be due to Government from the lands prior to the year in which the purchase may be made, unless it shall be otherwise stipulated in the conditions of sale. Arrears of suspensions, not so stipulated to be made good by the purchaser, shall be paid by the former proprietor, and recourse shall be had to the remainder of his real or any other property which he may possess, or to the confinement of his person, or to both his person and property, for the recovery of the amount. Arrears of rent or revenue that may be due to the defaulting proprietor from his dependant talookdars, under-farmers, or ryots, preceding the date on which the lands may be sold, shall belong to him, and are to be recoverable by him by suit in the court of adawlut of the zillah. The defaulting proprietor, however, shall be at liberty to transfer his right to such arrears to the new proprietor.

Purchasers of lands under this regulation, not to be responsible for arrears or suspensions, on account of former years, unless otherwise stipulated in the conditions of sale.

By whom such arrears and suspensions are to be made good.

IX. All purchases of land at the public sale shall be made in the names of the persons actually purchasing the same, without any fictitious substitution, or the substitution of the name of any other person whatever. Any evasion of this rule will render the lands purchased in opposition to it liable to confiscation to Government, or to such other penalty as the Governor General in Council, on consideration of the circumstances of the case, may think proper to impose; but it is not intended to prevent any person, duly authorized, from making a purchase of land at the public sales for another; so that the real purchaser be declared at the time of sale, and his name registered accordingly.

All purchases of land at the public sales to be made in the names of actual purchasers.

Penalty for any evasion of this rule.

Explanation.

Defaulters restricted from purchasing their own lands at the public sales.

X. All defaulting land-holders, farmers, and sureties, whose lands may be sold by public sale for the discharge of arrears of revenue, are positively restricted from becoming the purchasers, directly or indirectly, of their own lands so disposed of. If they have the means of making such purchases, they must have the means of preventing the sale by discharging the arrear due from them; and any lands which may be found to have been purchased by them, after the promulgation of this regulation, in opposition to the above prohibition, are declared liable to immediate forfeiture to Government. The collectors shall cause due inquiry to be made, whenever they may suspect such illicit purchases; and if they shall consider the same established, shall report the circumstances of the case, with the proceeding held by them, to the Board of Revenue, to be submitted by them with their opinion for the determination of the Governor General in Council, whose decision upon the case shall be considered final; unless the party dissatisfied shall think proper to prosecute his claim in the courts of justice; who are, in that case, to proceed as directed in other suits wherein Government may be a party under Section 48, *Regulation XXVII.* 1803.

Lands hereafter purchased against this prohibition forfeited to Government

Collectors how to proceed with respect to such illicit purchasers.

To be finally determined upon by the Governor General in Council;

Subject to judicial process under Section 48, *Regulation XXVII.* 1803.

In what manner the collectors are to give possession to purchasers at the public sales.

XI. The collectors shall give possession to purchasers at the public sales of lands within their respective zillahs, *by publishing at the head* cutcherree *of the* pergunnah *or other* mohaul *sold, and at the* cutcherree *of the* adawlut, *in the jurisdiction of which such* mohaul *may be situated, a statement of the land sold (as exhibited at the time of sale), the name of the purchaser, the date of his purchase, and his succession to all the rights of the former possessor. In the event of any further measures being necessary to put the purchaser in possession, he shall apply to the judge of the* zillah, *within which the land may be situated; and on inspection of the proclamation above mentioned, the judge shall put the purchaser in possession of the property sold to him, as herein specified, by the usual process for giving possession of all other property under decrees of the courts of justice. If the late incumbent shall dispute the right of the purchaser to any part of the property so delivered over to the purchaser, as not being included in the purchase, he (the former incumbent) is at liberty to institute a regular suit in the court of* adawlut *for the recovery thereof, with costs and damages; and, in like manner, if the purchaser think himself entitled to any property which the judge may not deliver over to him, as not appearing to have been included in the sale, he is at liberty to sue the late incumbent for the same in the court of* adawlut; *and, on proof of his title, shall recover such property, with all costs and damages. If any other person, not being the late incumbent, or his representative, shall claim any part of the property sold and delivered over to the purchaser, he is at liberty to institute a suit against the former incumbent and purchaser jointly for the recovery thereof; and, on proof of his right, shall receive back the same, with costs and damages, from the late incumbent, who shall further, in such case if the property adjudged were clearly included in the sale, be compelled by the court of* adawlut *to make reparation to the purchaser adequate to the loss sustained by him; either by a refund of a proportion of the purchase money, or otherwise, as may appear just and equitable: Provided, however, that nothing in this rule shall be considered applicable to the rights of under-tenants, of whatever description, in the land sold, whose rents may have been payable to the late incumbent. As the purchaser is entitled only, by the terms of his purchase, to the rights of the late incumbent, (except in the cases provided for by Regulation XLVII.* 1803) *whatever disputes may arise between him and the under-tenants must be settled between them, or by the usual course of law, in like manner as they would have been between the under-tenants and late incumbent, if the sale had not taken place. But in cases of public sales for arrears of the public revenue, the purchaser may, without any previous application to the* adawlut, *eject any of the under-renters whose leases are annulled by Regulation XLVII.* 1803, *and who may decline the renewal of them on such terms as the purchaser, by the above regulation, is authorized to require from them: Provided further, that, whenever the land may have been sold to discharge an arrear of the public assessment upon such land, or upon the estate of which such land formed a part, no private claim thereto, on the plea of sale, gift, or other transfer, or of pledge, mortgage, or other assignment, or any other private claim whatever, shall be admitted by any court of justice in bar of the prior and indefeasible right of Government to hold the whole of the lands answerable, in the first instance, for the public revenue assessed thereupon, as immemorially known and acknowledged.*

Further measures, if necessary, to be taken by the judge of the zillah.

Late incumbent how to recover any property delivered over to the purchaser, but not included in his purchase

And purchaser how to recover any property included in the sale, but not delivered over to him

Any other person, not being the late incumbent, or his representative, claiming a right to property disposed of at the public sales, how to recover the same.

Exception of rights of under-tenants

Any disputes respecting which to be settled between the under-tenants and purchaser, as with the late incumbent, if the sale had not taken place.

But in cases of sales for arrears of revenue, the purchaser may avail himself of the rights vested in him by Regulation XLVII. 1803, *without application to the* adawlut.

Further provision against any private claim upon lands sold to discharge the revenue assessed thereupon, or upon the estate of which it forms a part.

Prior and indefeasible right of Government in such cases.

XII. All purchasers of lands at the public sales are required to attend the collector of the *zillah* wherein the lands may be situated, either in person, or by their representatives duly authorized, and to execute the usual *cabooleats* and *kisthbundy* for the public revenue assessed upon the lands purchased by them. In cases of doubt as to the real purchaser, or of suspicion that the purchase has been made in opposition to the rules contained in Sections 9. and 10. of this regulation, the collector is authorized to cause the personal attendance of the alleged purchaser at his *cutcherree*, if resident within his jurisdiction; or, if the purchaser be resident in any other *zillah*, the collector of such *zillah* is authorized and required to cause the attendance of the purchaser at his *cutcherree*, on the application of the collector in whose district the lands may lie, and to make any examination or inquiry which may be desired by the latter collector, or by the Board of Revenue: to whom a full report shall be made in such cases, for the orders of the Governor General in Council, as directed in Sections 9. and 10. of this regulation.

Collectors authorized to cause the attendance of any landholder, or other native, whose attendance may be required.

XIII. Under the provisions for the sale of entire estates, and assessment of portions of estates, made by this regulation, it can seldom, if ever, be necessary to sell, for the recovery of an arrear of revenue, a fractional portion of an estate, such as an eight-anna, four-anna, or other proportion, to be held in joint partnership, or common tenancy, without a previous division of the land, or distinct assessment of the revenue thereupon; and as such sales must depreciate the value of the property sold, from the uncertainty of the assessment, and responsibility attached to the share of a joint undivided estate, no sale of this nature shall hereafter take place, for the discharge of an arrear of the public revenue, without the express sanction of the Governor General in Council, on a report of any particular case which may appear to require it. The public sale of a share in a joint undivided estate may, however, in some instances be necessary, under decrees of the courts of judicature, or otherwise; and whenever such sales may take place, they shall be made under the provisions applicable to joint estates in general, as set forth in this regulation, or any other existing regulation.*

No fractional portions of an estate to be sold as joint undivided property, without the express sanction of the Governor General in Council.

Sales of this nature, when necessary under decrees of the courts of justice or otherwise, to be made under the provisions of this regulation, applicable to joint estates in general.

XIV. No sale of lands, for the recovery of arrears of revenue, or other public demand shall be made, without the previous sanction of the Governor General in Council.

No sale of lands, for the recovery of a public demand, shall be made without the previous sanction of the Governor General in Council.

XV. The following rules are enacted for conducting the sale of lands, paying revenue to Government, ordered to be sold in satisfaction of decrees of the courts of justice.

Rules for conducting the sale of lands in satisfaction of decrees of the courts of justice.

XVI. When a court of civil judicature shall have occasion to have recourse to the sale of lands paying revenue to Government, in satisfaction of a decree, the court by which the decree is to be enforced, shall transmit a copy of the decree, without any other part of the proceedings, and a translate of it in English, to the Board of Revenue.

Copy and translate of decrees, to be enforced by the sale of *malguzaree* lands, to be transmitted to the Board of Revenue.

XVII. The Board of Revenue shall proceed, with all practicable despatch, to dispose of such portion of the lands of the party against whom the decree may be given, as may be sufficient to make good the amount of it. The Board shall cause the lands to be disposed of at the presidency, or in the *zillah* in which the lands may be situated, according as they may deem most advantageous for the proprietor. The Board shall report, for the information of the Governor General in Council, all orders for sales of land which they may issue under the powers vested in them by this section, immediately on the same being issued by them.

Board of Revenue to proceed to the sale of the lands without delay.

Orders for sales of lands to be reported to the Governor General in Council.

XVIII. The public *jumma* or revenue to be charged on the portion of any estate ordered to be put up to sale, shall be adjusted agreeably to the principles prescribed in Section 37, Regulation XXV. 1803.

Public revenue to be charged on the lands sold, to be fixed agreeably to Section 37, Regulation XXV. 1803.

XIX. The Board of Revenue are empowered, in cases in which it may appear to them expedient, to direct the collector to attach the lands ordered to be sold, by deputing an *ameen* to take charge of them, or by placing them under the nearest *tehsildar* or other revenue officer. The officer to whom the lands may be committed shall collect the rents and revenues, to prevent waste being committed by the proprietor, and shall furnish any information which may be required for the adjustment of the *jumma*.

Board of Revenue empowered to order the attachment of lands directed to be sold.

XX. The expenses attending the attachment and sale of the lands, after being approved by the Board of Revenue, shall be charged to the account of the proprietor, and shall be defrayed,

Expenses of the attachment and sale to be defrayed by the proprietor.

* Sect. 13. and 14. are rescinded by clause first, Section 2, Regulation XI. 1822.

defrayed, either from the collections made from the lands, or from the proceeds of the sale, if the collections shall be insufficient for that purpose.

Proprietor of the lands may appoint officers to keep counterparts of the *ameens'* accounts.

Rules to be observed by the *ameen* in making the collections.

XXI. The proprietor of the lands to be sold may appoint his *dewan*, or any other person whom he may think proper, to keep a counterpart of the accounts of the receipts and disbursements of the *ameen*. The *ameen* shall collect according to the engagements which may subsist between the proprietor and his dependant *talookdars*, under-farmers, and *ryots*, and shall not make any alterations whatever in such engagements, or exact more than the amount specified in them; and he shall be liable to a prosecution in the court of *adawlut* for any alteration or infringement of such engagements in opposition to this section. In cases in which no engagements shall exist between the proprietor and his dependant *talookdars*, under-farmers, or *ryots*, the *ameen* shall collect from them according to the established rates and usages of the *pergunnah*. The *ameen* shall likewise be subject to a prosecution by the proprietor or farmer of the estate for embezzlement, or injuries done to the estate or farm, during the time that the collection of the rents and revenue of it may be entrusted to him.

Rules in the preceding section applicable to *tehsildars* or other officers appointed to take charge of the lands ordered to be sold.

XXII. The rules in the preceding section, with regard to *ameens*, shall be considered equally applicable to *tehsildars*, or other officers, to whose charge lands ordered to be sold may be committed.

Punishment for resisting, or causing to be resisted, the officer deputed to attach the lands to be sold.

XXIII. If a proprietor, or (if the lands be let in farm) a farmer, or his surety, shall resist, or cause to be resisted, the *ameen* or other officer whom the collector, by the authority of the Board of Revenue, may direct to attach lands ordered to be sold, the collector shall proceed against the offender in the manner in which he is directed, in Regulation XXVII. 1803, to proceed against proprietors and farmers, or their sureties, who resist the process which he may issue under Section 20. of that regulation; and all the rules contained in that regulation, respecting proprietors, farmers, or sureties, who may resist, or cause to be resisted, the process issued by the collectors under that section, shall be considered applicable to proprietors, farmers, or sureties, who may resist, or cause to be resisted, the officer who may be ordered by the collector to attach their lands under Section 9. of this regulation. Any other descriptions of persons guilty of the offence specified in this section, shall be subject to the same process and punishment as sureties so offending.

Courts empowered to countermand or postpone sales of lands ordered to be made in satisfaction of decrees.

XXIV. Where a sale of the lands of any person shall have been ordered to take place in satisfaction of a decree, the court by which the decree may have been passed, or to which the enforcing of it may be committed, is empowered, in the event of the amount of the decree being discharged, or for other cause which may appear to them sufficient, to countermand or postpone the sale, by issuing a precept to that effect to the collector, if the lands shall have been ordered to be sold by the collector, or by an address to the Board of Revenue, if the lands shall have been directed to be sold by them, in which precept or address the court shall state their reasons for ordering the sale to be countermanded or postponed, and in the latter case, if it shall appear to them proper so to do, they may prescribe a date for the sale of the lands. The Board of Revenue and the collector shall conform to the requisitions of such precepts or addresses from the courts for countermanding or suspending the sale of lands.

Rules prescribed by this regulation for the sale of *malguzaree* lands on account of any public demand, to be held applicable to the sale of lands of a similar description, when disposed of in satisfaction of decrees of the courts of justice.

XXV. In addition to the foregoing rules, the rules prescribed by this regulation, respecting the sale of lands paying revenue to Government, for the recovery of arrears of revenue, or other public demand, shall be considered applicable to the sale of lands of a similar description, in satisfaction of decrees of the courts of justice, as far as such rules may apply to the circumstances thereof.

The foregoing rules also to be held applicable to the sale of *lakheraj* lands.

The purchasers of *lakheraj* lands succeeding to what rights.

XXVI. The rules prescribed by this regulation, respecting the sale of lands paying revenue to Government, shall be also considered applicable to lands held exempt from the payment of revenue to Government, as far as such rules may apply to the circumstances thereof; with this addition, that the purchaser of such exempted lands shall be considered as having succeeded only to the rights of the former proprietor, and that the transfer shall not bar any claims of Government for the recovery of the public dues from such lands, under Regulations XXXI. and XXXVI. 1803, or any other regulation which may be hereafter enacted.

XXVII. When a sale of lands shall have taken place, under this regulation, the collector of the *zillah* in which the sale shall have been made shall cause the entries of the transfer to be made in the public registers, directed to be kept by Regulation XLII. 1803.

All transfers by sales of land, to be entered in the registers directed to be kept by Regulation XLII. 1803.

XXVIII. The Board of Revenue, who are empowered by this regulation to conduct the sales of land in the mode therein prescribed, will consider themselves responsible for the careful execution of this duty; and are required to be particularly attentive to the proper selection of lands for sale by the collectors, as well as to the due allotment of the public assessment thereupon, in conformity to the regulations. They are also authorized to fix the establishments of native officers which may be necessary, during the attachment of lands for sale, the expense of which shall be defrayed from the produce of the lands, as provided in Regulation XXVII. 1803: and statements of all such establishments shall be submitted by the collectors, for their approval, as soon as possible after the attachment may take place. In preparing such statements, the collector shall be careful not to propose a greater number of officers, or greater allowances to the officers employed, than may be indispensably necessary; and the Board of Revenue, in approving such establishments, shall give particular attention that this principle is duly observed. The collectors shall also nominate, for the approbation of the Board of Revenue, the *ameens* and other principal native officers to be employed in the management of lands under attachment, with the sureties to be taken for their appearance under Section 2. of Regulation XXXIII. 1803, and will be held responsible for the utmost regard to the qualifications and character of the persons so appointed by them.

Board of Revenue to conduct sales of land under the regulations.

Their responsibility, and objects to be attended to by them.

Collectors to propose, and Board of Revenue to approve, establishments of officers to be employed during the attachment of lands.

Objects to be attended to in proposing and approving such establishments.

Collectors also to nominate, and Board of Revenue to approve, the principal officers to be employed in the management of lands under attachment, with their sureties.

Responsibility of collectors in all such appointments.

XXIX. The following rules are prescribed for the division of estates paying revenue to Government, and for allowing two or more proprietors of shares of an estate to hold their shares as a joint undivided estate.*

XXX. The division of every zemindaree, *independent* talook, *or other estate, paying revenue immediately to Government, which may be ordered to be divided into two or more distinct estates, and the apportioning of the fixed* jumma *assessed on the whole of the estate upon the several shares, shall be executed under the superintendence of the collector of the revenue of the* zillah *in which the estate may be situated.*

Division of estates in the cases specified in this regulation to be made by the collector.

XXXI. If all the proprietors of a joint undivided estate shall be desirous to have their estate divided into two or more separate estates, they shall make a written application for that purpose to the collector of the zillah, *under their respective seals and signatures, and attested by four credible witnesses, specifying the shares which belong to them respectively, and whether they are desirous of having separate possession of their respective shares, or whether any two or more of them propose to hold their shares as a joint estate. The collector shall immediately proceed to make the division of the joint property into the number of estates requested by the proprietors; reporting the same, for the information of the Board of Revenue. All expenses incurred by the division shall be borne by the proprietors, in the proportion which their respective shares may bear to the whole estate. Agreeably to this rule, a proprietor of a sixteenth part, or one anna share, will defray a sixteenth of the expense, and the other sharers in proportion.*

Proprietors of a joint estate entitled to have a division of it made at their own expense.

XXXII. First. *If one, two, or more of the proprietors of a joint estate shall be desirous to have the separate possession of his or their respective share or shares, or, if two or more of them shall be desirous to have their shares separated, and to hold them as a joint estate, they shall make a written application for that purpose to the collector of the* zillah, *under their seals and signatures, and attested by four credible witnesses. The collector shall immediately proceed to make the division applied for, in the prescribed form, reporting the same for the information of the Board of Revenue, unless the person or persons in possession of any part of the estate, shall deny the right of the party or parties applying for the division, in the form required*

One, two, or more of the proprietors of a joint estate entitled to have their shares separated at his or their expenses.

* Rescinded by Section 2, Regulation XIX. 1814.

required by Section 33. of this regulation ; in which case, the collector shall not proceed to the division until the disputed title be established or admitted, as prescribed by the said section. If the division shall be made, at the application of one sharer only, he shall pay the whole of the expense attending it. If the division be made at the application of two or more of the sharers, they shall defray the expense in the proportion that each of their respective shares may bear to the aggregate of their shares. Agreeably to this principle, if the estate be divided, at the application of three sharers, each entitled to two-sixteenths, or a two anna share of the whole estate, each sharer will defray a third of the expense attending the division.

Courts of justice may order the division of an estate in the cases herein specified.

Second. *Where any person or persons may succeed to the proprietary right in a portion, or the whole of an estate, in virtue of a decree of a court of justice, the court to which the enforcing of the decree may be committed is empowered, upon receiving an application from the proprietor or proprietors to that effect, to issue a precept, under the seal of the court, and attested by the register, to the collector, requiring him to divide the estate, and (provided it be not held* khas *or let in farm by Government) to put the parties in possession of the shares to which they may be entitled under the decree. The collector shall proceed to make the division, upon the receipt of the precept, sending a copy of it to the Board of Revenue, for their information.*

Collectors not to proceed to a division, if all or any of the parties in possession deny the right of the person or persons applying for the division to the share or shares claimed ; until their titles be established in the adawlut, *or the parties so denying shall admit the title.*

XXXIII. If one, two, or more persons shall apply to a collector for the division of an estate, and the separate possession of the share or shares to which he or they may state themselves entitled, and all or any of the persons in the possession of the estate, or any part of it, shall deny, by a writing, under his or their seals and signatures, and attested by two credible witnesses, the right of such claimant or claimants to the share or shares so claimed, the collector shall not proceed to the division, until he or they have established his or their rights to such share or shares in the court of adawlut, *or until the party denying such right shall signify to the collector, by writing under his or their seals and signatures, and attested by four credible witnesses, that he or they admit the title of the person or persons applying for the division to the share or shares claimed.*

Two or more estates which originally formed part of the same zemindaree, *&c. may be united and registered as one estate.*

XXXIV. If two or more estates which may have originally formed specific and ascertained portions of the same zemindaree, talook, *or other tenure, shall come into the possession of one person ; or, if one, two, or more persons shall possess two or more shares of any such estate, such person or persons shall be entitled to have such shares united, and to hold them as one estate. Application for the union of estates shall be made to the collector of the* zillah, *in writing, under the seal and signature of the proprietor or proprietors, and attested by two credible witnesses. The collector shall forward the application to the Board of Revenue, who are empowered to comply with the application, reporting it to the Governor General in Council, to whom a power is reserved of disallowing the union, in cases in which, from the great extent of the estates proposed to be united, it may appear to him unadvisable. If the union shall take place, the required entry of it shall be made in the register of intermediate mutations in property, as prescribed in Regulation XLII.* 1803 ; *and in the next quinquennial register, the estates so united shall stand as one estate, and an engagement for the revenue assessed upon it shall be taken from the proprietor or proprietors accordingly.*

Each estate to be as compact as possible.

XXXV. When a division of an estate shall be ordered to be made, each of the estates into which the property may be directed to be divided shall be formed of entire and (as far as the situation of the lands and other local circumstances may admit) contiguous mohals *or villages, so that each estate may be as compact as possible.*

Public revenue to be assessed upon each estate agreeably to the rules herein prescribed.

Rules for selecting the lands to be included in each estate.

XXXVI. The public revenue shall be assessed upon each estate into which the property may be ordered to be divided, in conformity to the rules prescribed in Regulation XXV. 1803 ; *but in selecting the* mohauls *or villages to be included in each separate estate, the advantages or disadvantages arising from situation, the vicinity of roads or navigable rivers, the nature and quality of the soil and produce, the quantity of waste land, the depth at which water may be procurable, the number of tanks and wells, the state*

of the embankments and water courses, and every other local circumstance affecting the present, or likely to influence the future value of the lands, shall be duly considered, and the mohauls *or villages to be included in each estate fairly and impartially selected accordingly. A strict adherence to the above rule is essential to rendering the division equitable. For, if the* mohauls *or villages containing a large proportion of waste land, and situated in the vicinity of a navigable river, or possessing other local advantages, are included in one estate, and the* mohauls *or villages liable to inundation, or comprising a small proportion of waste land, or situated at a greater distance from a navigable river, or subject to other local disadvantages, are included in another, it is obvious that the selection of the* mohauls *and villages included in the two estates will not be fairly and impartially made, although the public revenue may be assessed upon each estate, agreeably to the rules prescribed in Regulation XXV.* 1803, *as far as regards their immediate produce at the time of the division. The former estate will be more valuable than the latter, from being capable of improvement, without being liable to be affected by the calamities of season, whilst the latter will be subject to those calamities, without possessing the same advantages as the former.*

Upon a division, proprietors allowed to retain their dwelling houses and the lands immediately attached to them, although situated in the share of another, on paying rent for the land.

XXXVII. If a dwelling house belonging to one sharer shall be situated in a mohaul *or village which may be included in the estate of another, the proprietor of such house shall be at liberty to retain it, with the offices, buildings, and ground, immediately attached to it, upon paying to the proprietor of the* mohaul *or village an equitable rent for the ground; and the limits of the ground and the rent to be paid for it, shall be particularized in the paper of partition.*

Rules with regard to tanks, embankments, &c.

XXXVIII. Tanks, wells, reservoirs, water-courses, and embankments, shall be considered as attached to the land for the benefit of which they were originally made. In cases in which, from the extent, situation, or construction of works of this nature, it shall be found necessary to continue them the joint property of the proprietors of two or more of the estates, the paper of partition shall specify, as far as circumstances may admit, the proportion of the benefit which each estate is entitled to derive therefrom, and of the expense of the repairs with which it is to be charged.

And places of religious worship.

XXXIX. Places of worship which may have been held in common, previously to the division of a zemindaree *or other estate, shall be continued on the same footing, unless the parties shall otherwise agree amongst themselves; in which case, they shall signify their determination in writing to the* ameen, *who shall insert it in their paper of partition.*

Divisions of estates to be made by an ameen to be appointed by the collector.

XL. When an estate shall be ordered to be divided, the collector shall appoint a creditable ameen *to make the division, with such personal allowance and establishment as may appear to him proper; reporting the amount, and particulars of each, to the Board of Revenue, for their approval.*

Oath to be taken by the ameens.

XLI. First. *The collector is empowered and directed to administer the following oath to the* ameen, *previous to his proceeding to make the division. "I, A. B. appointed to make the division of the estate of ————, in the* zillah *of ————, solemnly swear, that I will fairly and impartially, and as expeditiously as may be practicable, make the division of the property, and apportion the public revenue upon each distinct estate into which it is directed to be divided, to the best of my knowledge and judgment, according to the regulations passed by the Governor General in Council; that I will not directly or indirectly receive or allow any other person to receive any fee, present, or reward whatever, from any of the sharers, or any person or persons on their behalf, on account of the division or any matter connected therewith; that I will not derive any advantage or emolument from my appointment, excepting such as may be expressly allowed to me by the collector, and approved by the Board of Revenue; and that I will deliver to the collector all such papers and accounts as may come into my possession, respecting the estate which I am appointed to divide."*

Penalty for ameens convicted of corruption in opposition to their oath.

Second. *If the* ameen *shall be convicted before the court of* adawlut *of the* sillah, *of receiving, or allowing any other person to receive, directly or indirectly, any money or effects, or other property, from the sharers, or any person or persons on their behalf, in opposition to his oath, he shall be compelled to restore the money or property to the party from whom it may have been received, and to pay a fine of three times the amount or value of it to Government, with all costs to the party prosecuting, and be imprisoned until he shall make good the decree, or the amount of it shall be liquidated by the sale of his property.*

Documents with which the collector is to furnish the ameen.

XLII. The collector shall deliver to the ameen *a* sunnud *of appointment, under his official seal and signature, in which shall be specified the name of the estate, the names of the different sharers, their respective proportions, the number of separate estates into which the property is to be divided, and the shares included in each estate; together with a copy of the regulations under which he is to make the division, and of the entries in the last formed quinquennial register, or in the subsequent register of intermediate mutations (should such registers have been previously formed) which may relate to the property to be divided.*

Ameen *to survey the different parts of the estate in person.*

XLIII. Upon the arrival of the ameen *on the spot, he shall survey in person the different parts of the property, so as to enable him to select the lands to be included in each estate, in conformity to the rules prescribed in Sections* 37 *and* 38.

Proprietors to furnish the ameen *with the necessary accounts to enable him to allot the* jumma *on the several shares, in conformity to Regulation XXV.* 1803.

Proprietors to swear to the truth of the accounts, or, if exempted from swearing, to subscribe the usual declaration.

Proprietors liable to be fined, if they do not produce the accounts.

XLIV. The proprietors shall furnish the ameen *with the accounts of the gross produce of each* mohaul *and village, and all other accounts or information which he may require, to enable him to assess the public revenue on each of the estates into which the property is to be divided, in conformity to the rules prescribed in Regulation XXV.* 1803.

XLV. The proprietors shall swear to the truth of the accounts before the ameens, *or, if they shall be of the description of persons whom the courts of judicature are empowered to exempt from taking oaths, the collector shall authorize the* ameen *to receive from them a solemn declaration to the truth of the accounts. If the proprietors shall omit to furnish the required accounts, the persons withholding them shall be liable to such daily fine, until they produce them, as the Governor General in Council may judge it proper to impose, upon a consideration of the case, and their situation and circumstances in life; and the amount of the fine shall be levied by the collector by the same process as is prescribed for levying arrears of revenue.*

Proprietors to cause their putwarees, *and other* zemindaree *officers to attend the* ameen, *under the penalty therein prescribed.*

Putwarees acting contrary to the rules in Regulation XXIX. 1803, *how to be proceeded against.*

XLVI. The proprietors shall likewise cause the putwarees, *and other* zemindaree *officers, to attend the* ameen, *to explain the accounts, and to furnish him with such information as he may require, for dividing the estate, and apportioning the public* jumma, *under the penalty of being fined in the same manner as for omitting to produce the accounts.* Putwarees *refusing to deliver their accounts, or otherwise acting contrary to the rules contained in Regulation XXIX.* 1803, *shall be proceeded against as therein directed.*

Documents to be delivered to the collector by the ameen, *when he has completed the division.*

XLVII. When the ameen *has completed the division of the property, and allotted the public revenue on each estate, he shall submit to the collector the papers of the division and allotment, which shall specify the names of the* mohauls *or villages included in each separate estate, into which the property may have been divided, the gross produce of each* mohaul *and village for the three years preceding the year in which the division may be ordered to be made, and the proportion of the public* jumma *which he may have assessed thereon, with such observations regarding the manner in which he may have selected the lands included in each estate, and the accounts from which he may have apportioned the public revenue of them, as may be necessary for the information of the collector, together with a detail of the adjustment which he may have made respecting the tanks, places of worship, or other matters, specified in Sections* 38, 39, *and* 40.

Collector after examining the documents, and

XLVIII. First. *The collector shall examine the documents which may be delivered to him by the* ameen, *and after receiving any objections or remarks which may be offered*

to him by the sharers in person, or by their vakeels, he shall draw out a paper of partition, specifying the mohauls *or villages included in the several estates into which the property may have been divided, the gross produce of each* mohaul *or village, the allotment of the public* jumma *upon each, the name or names of the proprietor or proprietors of each estate, and, where an estate is to be held as the joint property of two or more persons, their respective shares in the estate, together with the stipulations which may have been made respecting any of the matters mentioned in Sections 37, 38, and 39, and transmit a copy of the paper to the Board of Revenue, with such observations as may be necessary to enable them to judge, whether the division of the property, and the allotment of the* jumma *on each estate into which it may have been divided, have been made agreeably to the regulations.*

having the objections of the parties, to draw out a paper of partition.

What the paper is to contain.

Copy of the papers to be transmitted to the Board of Revenue, with the collector's remarks.

Second. *Previously to forwarding the paper of partition to the Board of Revenue, as required by the preceding clause, the collector shall furnish the sharers with a copy of it. In the event of the whole of the sharers, by a written declaration, under their seals and signatures, and attested by four credible witnesses, declaring their satisfaction with the partition statement so communicated to them; or, in the event of none of the sharers offering any objection thereto, within fifteen days after they shall have respectively received the copies delivered to them; the collector, on receipt of the general declaration of satisfaction in the former case, or in the latter, on the expiration of the period above stated, shall proceed to put the parties in possession of their respective shares; reporting the same to the Board of Revenue, and submitting to them a copy and translation of the partition statement and allotment of the assessment: but such allotment of the assessment shall not be deemed conclusive, until it shall have been confirmed by the Board of Revenue, who are authorized to make any alterations therein which may appear to them necessary for the purpose of carrying into effect the proportionate rule of allotment prescribed in Section 37, Regulation XXV. 1803, and Section 37. of this regulation. The Board of Revenue are empowered to confirm, or make such alterations in, the division of the property, and the allotment of the public revenue on each estate, or other matters specified in the paper of partition, as may appear to them proper; reporting their determination to the Governor General in Council, in cases of appeal, or of a reduction of the fixed assessment. The Board of Revenue may order further inquiries to be made, before they pass their determination on the division, in cases in which it may appear to them necessary.*

Collectors how to act, previously to forwarding the paper of partition to the Board of Revenue.

In what cases the sharers are to be put in immediate possession.

Allotment of the assessment to be confirmed by the Board of Revenue.

Who may alter the same, if necessary, in pursuance of certain rules.

The Board of Revenue also empowered to alter the division of landed property.

Alterations in the division of an estate, or in the allotment of the public revenue, to be reported to the Governor General in Council, in certain cases.

Third. *In the event of any objections to the partition statement being offered by the sharers, or any one of them, within the period of fifteen days specified in the preceding clause, the collector shall not put the parties in possession; but shall transmit, without delay, a copy and translation of such objections to the Board of Revenue; together with a copy and translation of the partition statement; and of the whole, or such part, of the* ameen's *report as may be applicable to the points objected to; and such further information as may be necessary to enable the Board to form a satisfactory opinion on the case.*

Rule in the event of objections to the partition being offered by the sharers.

XLIX. The determination of the Board of Revenue on the paper of partition shall be communicated, in writing, by the collector to the sharers, who shall be allowed one month from the date of the communication to appeal from the determination of the Board of Revenue to the Governor General in Council, whose decision shall be final. The party desirous of appealing shall present his petition of appeal to the collector, or to the Board of Revenue, and the petition is to specify the matters to which the appellant may object.

Decision of the Board of Revenue to be communicated to the sharers, all or any of whom may appeal from it to the Governor General in Council, within one month.

L. If all the sharers shall express themselves satisfied with the decision of the Board of Revenue, by a writing under their respective seals and signatures, or, if none of them shall appeal within the limited time, or, although an appeal should be preferred, if the partition prepared by the collector shall have been confirmed by the Board of Revenue, or, in other cases of appeal, upon the receipt of the final decision of the Governor General in Council, the collector shall put the parties in possession of their respective estates, and immediately make the necessary entries in the register of intermediate mutations, as prescribed in Regulation XLII. 1803, after comparing the documents delivered by the ameen *with the entries regarding the estate in the preceding quinquennial register, and correcting or supplying any errors or omissions which may be discovered in those entries.*

Collectors to put the parties in possession of their estates, when all matters regarding the division have been finally adjusted.

No objections to the partition made by the collector shall be received by the Board of Revenue after fifteen days, unless good cause be assigned for the delay; nor by the Governor General in Council from the decision of the Board of Revenue after one month, except on the same grounds.

Governor General in Council, or Board of Revenue, when objections appear groundless, vexatious, or litigious, to impose a fine on the defaulter.

LI. First. *No objections from the sharers to the partition communicated to them by the collector in the first instance shall be received by the Board of Revenue after the prescribed period of fifteen days, without good cause for the delay being shewn to their satisfaction; nor will any appeal from the determination of the Board of Revenue be admitted by the Governor General in Council after the limited period of one month, unless he shall be entirely satisfied with the cause assigned for not having preferred the appeal to him within that period.*

Second. *Whenever the objections to the collector's partition which may be preferred to the Board of Revenue, or the appeal from the determination of that Board to the Governor General in Council, shall clearly appear to be groundless, vexatious, and litigious, it shall be competent to the Board of Revenue in the former case, and in the latter to the Governor General in Council, to impose such fine upon the defaulter as may be deemed proper, on consideration of the circumstances of the parties and the nature of the case. Such fine shall be recovered by the same process as is prescribed for the recovery of arrears of revenue.*

Governor General in Council will impose a fine on any person withholding accounts or otherwise obstructing the division of an estate.

Third. *If any of the sharers in a joint undivided estate shall, by withholding the requisite accounts and papers, or by any other voluntary act, impede or oppose the division of the estate, when the same may have been ordered and proceeded upon in the mode prescribed by the regulations, the party or parties so offending shall, on the report of the collectors and the Board of Revenue, be liable to such fine as the Governor General in Council, on consideration of the circumstances of the case, may judge proper to impose, and the fine so ordered shall also be levied in the mode prescribed by the regulations for the recovery of arrears of revenue. It is hereby further explained, that, whenever a daily fine may be imposed, under any part of the regulations, for the purpose of causing the delivery of accounts, or otherwise, and such fine may be imposed by the collectors or by the Board of Revenue, subject to the confirmation of the Governor General in Council, the operation of such daily fine, provided it be approved by the Governor General in Council, or of such part thereof as may receive his approbation, shall commence from the date when the fine may have been first notified to the party on whom it is imposed; unless, in any case, it should be otherwise ordered by the Governor General in Council, or be otherwise provided by the original order of the collector or the Board of Revenue.*

Division of estates may be made by the sharers themselves, or by arbitrators, under the inspection of the ameen, in the cases herein specified.

LII. In the cases specified in Sections 31 *and* 32, *if all the proprietors of the estate to be divided shall agree to make the division themselves, and to allot the public* jumma *upon each estate, and to adjust all other matters respecting the division, agreeably to the regulations, they shall present a petition to that effect, under their seals and signatures, and attested by four credible witnesses, to the collector, who shall issue directions to the* ameen *accordingly. But the proprietors shall produce the required accounts before the* ameen, *and swear, or subscribe a solemn declaration to the truth of them; and the division of the lands, and the apportioning of the* jumma, *and every other matter relating thereto, shall be settled in the presence, and subject to the inspection, of the* ameen, *who shall be responsible for the regulations being in every respect observed. In like manner, if all the proprietors of the estate which may be ordered to be divided in the cases specified in Sections* 31 *and* 32, *shall agree to refer the division of the estate, and the apportioning of the public* jumma, *and the adjustment of all other matters respecting the division, to an arbitrator or arbitrators, they shall present a petition to that effect to the collector, attested by four credible witnesses, and specifying the name of the arbitrator or arbitrators whom they may choose, and, where two or more arbitrators are chosen, the name of the umpire. Upon the receipt of the petition, the collector shall direct the* ameen *to cause the parties to execute arbitration bonds. The proprietors shall produce the necessary accounts before the arbitrators, and swear, or subscribe, a solemn declaration to the truth of them, before the* ameen; *and the division of the lands, and the allotment of the* jumma, *and every other matter relating thereto, shall be settled by the arbitrators, in the presence, and subject to the inspection, of the* ameen, *who shall be responsible for their proceeding according to the regulations. When the sharers, or the arbitrators, in the cases above specified, shall have adjusted the division of the property, and the allotment*

of the public jumma *on each estate, and all matters relating thereto, and the whole shall have undergone the revision of the* ameen, *he shall submit all the documents and papers specified in Section 47, to the collector, who, upon the receipt of them, shall proceed in the same manner as if the division had been made without the interference of the parties or the arbitrators; and all the rules contained in this regulation, regarding divisions made solely by the* ameen, *shall be held applicable to divisions made by the parties, or arbitrators under this section.*

LIII. If any landed property ordered to be divided shall not consist of a sufficient number of villages to admit of one or more whole village or villages being included in each estate, the division of the village or villages of which the property may consist shall be made so as to render each estate, into which the property may be divided, as compact as possible.

Estates, however small, to be rendered as compact as possible.

LIV. To remove, as far as may be possible, every inducement to fraud or partiality in the division of landed property, it shall be a rule, that, where two or more of the estates shall consist of the same proportions of the whole property divided, the parties entitled to them shall draw lots for the divisions, in the public cutcherree, *before the collector, who shall be held responsible that, in drawing the lots, no unfair means are practised. Agreeably to this rule, if any landed property shall be ordered to be divided into three estates, each consisting of a four annas share or four-sixteenths; or into three estates, one consisting of an eight annas share or eight-sixteenths; and the other two, each of four annas or four-sixteenths of the whole property, after the division and allotment of the public revenue, and every other matter relating to the division, shall have been finally adjusted, the proprietors of the four shares in the first case, and of the two four annas shares in the second, shall draw lots for the divisions, unless they shall settle amongst themselves which division of the property each party is to receive, and present a petition to the collector, under their respective seals and signatures, and attested by two credible witnesses, specifying the divisions which each of them may have agreed to take: in which case, the collector shall put them in possession of the divisions which they may respectively select.*

Cases in which the sharers are to draw lots for the lands that are to form their respective estates after the division is finally adjusted.

LV. To guard against collusion, or error, in the distribution of the public jumma *on landed property, which may be ordered to be divided into two or more distinct estates, it is declared, that, if it shall be proved, to the satisfaction of the Governor General in Council, within three years after the parties may have been put in possession, that the* jumma *was fraudulently or erroneously apportioned at the time of the division, he reserves to himself the power of ordering a new allotment of the* jumma *upon the several estates into which it may have been divided, conformably to the principles prescribed in Regulation XXV. 1803, upon an estimate of the gross produce of each estate at the time of the division, to be made agreeably to the best evidence and information which may be procurable respecting it; and further, of ordering the parties, whose estates may appear to have been under-assessed, to pay the sharers, upon whose estates the assessment may have been excessive, the sum of which they may be found to have been defrauded by the over assessment; and, in the event of their omitting to discharge the amount, to cause it to be levied by the collector by the process prescribed for the recovery of arrears of revenue.*

Governor General in Council reserves to himself the power of ordering a new allotment of the public jumma *in the event of it being proved to his satisfaction within three years, that the allotment was fraudulently or erroneously made.*

And to order the parties whose estates may have been over-assessed, to be indemnified by the sharers whose estates may have been under-assessed.

LVI. If any of the sharers in landed property ordered to be divided, from indisposition or other cause, shall be unable, or shall not choose to attend the collector or the ameen *in person, in the cases required, they shall depute a* vakeel *duly appointed, with powers to perform all such acts as they themselves are authorized or required to perform, under this regulation, until the division of the property, shall be finally adjusted.*

Parties not attending in person to appoint vakeels with full powers to act for them.

LVII. If any of the sharers in landed property ordered to be divided shall be females, not deemed competent to the management of their own estates, or minors, or persons otherwise disqualified for the charge of their own lands, the collector shall report the same to the Board of Revenue, who are enjoined to be careful, that the rights of such proprietors are duly attended to in the division. In instances where more proprietors than one possess an undivided estate, and part of such proprietors shall come under any of the descriptions of disqualified landholders above mentioned, having guardians, such guardians shall vote and act for them, in all matters relating to the division of their lands under this regulation.

Board of Revenue to take care that the rights of females, or proprietors disqualified by natural defects or infirmities, are duly attended to in divisions.

Joint landed property to be held responsible for the payment of the public revenue, until the parties are put in possession of the distinct estates into which it is to be divided.

LVIII. Landed property, for the payment of the public revenue assessed upon which engagements have been or may be concluded with the proprietors, and which may be ordered to be divided under this regulation, shall remain under charge of the manager appointed by the proprietors of joint undivided estates; and the whole of it shall be held answerable for the payment of the public revenue assessed upon it, until the division shall have been finally adjusted, and the proprietors put into possession of the distinct estates into which it may be ordered to be divided.

Rules respecting the division of landed property let in farm, or held khas *by Government.*

LIX. The division of landed property held khas, *or let in farm, by Government, inasmuch as regards the division of the lands, shall be made agreeably to the rules prescribed in this regulation, as far as they may be applicable to lands so circumstanced; and the farmer, or the native collector, of the revenue, on the part of Government, shall produce all the accounts and papers which they may possess respecting the lands, upon receiving a requisition to that effect from the* ameen. *Such property, when divided, will be subject to the rules contained in Section* 38, *Regulation XXV.* 1803.

All the provisions of this regulation explained to be applicable to joint estates held in common tenancy.

LX. In order to obviate doubts, respecting the descriptions of joint estates to which the several provisions contained in this regulation are meant to be applied, it is hereby explained, that the whole of the said provisions are applicable to joint estates held in common tenancy; viz. where all the sharers have a common right and interest in the whole of the estate, without any separate title to distinct lands or mohauls *forming part of the estate held under one general assessment. Many of these provisions, however, such as those which direct a compact division of the lands, the selection of lands of equal value for the several shares, and other circumstances relative to an equal partition of the estate, have evidently an exclusive reference to the division of landed property between tenants in common, or copartners, with equal rights in every part of the estate; and cannot be applied to portions of estates, consisting of specific* mohauls, *or lands held by purchase or otherwise from the former proprietor, and separable from his estate under the regulations, subject to a proportionate allotment of the public assessment, conformably to the rules prescribed in Section* 37, *Regulation XXV.* 1803; *but remaining annexed to the original estate, in conformity to that section, until the distinct assessment of the separable portion shall have been adjusted, and separately engaged for, as therein provided.*

The provisions in this regulation respecting the adjustment of the assessment in conformity to Regulation XXV. 1803, *with the further provisions contained in the existing regulations, are alone applicable to the case of a specific* mohaul *being sold or transferred.*

In such cases, the provisions in this regulation, which respect the adjustment of the assessment in conformity to Regulation XXV. 1803, *the accounts to be delivered and examined for this purpose, the responsibility of the whole original estate until a distribution of the assessment shall have been finally determined, and Section* 55, *reserving to the Governor General in Council the power of ordering a new allotment of the assessment in the event of its being proved to his satisfaction within three years that the allotment made was fraudulent or erroneous, are alone to be considered applicable; with the further provisions contained in the existing regulations. But all new allotments of the assessments in the cases here referred to, as in all other cases whatever, shall be reported for the sanction of the Board of Revenue; and shall not be deemed conclusive or valid until confirmed by that Board; or, in the event of any reduction of the fixed assessment, until approved by the Governor General in Council.*

No new allotments to be held valid, until confirmed by the Board of Revenue; or in case of a reduction of the jumma, *by the Governor General in Council.*

Board of Revenue to be guided by any special orders they may receive from the Governor General in Council,

To whom they are to apply in all cases unprovided for by the regulations;

Or may propose a new regulation in the form prescribed by Regulation I. 1803.

Collectors also authorized to propose new regulations in the prescribed form to the Board of Revenue,

LXI. In the execution of the duties vested in the Board of Revenue by this regulation, as in all other cases, they shall be guided by whatever special orders or instructions they may at any time receive from the Governor General in Council, (or Vice-President in Council,) to whom they shall apply in all cases which they may consider unprovided for by the regulations; or, if it appear to them, in any case, that a new regulation would be advisable to be printed and published in the form prescribed by Regulation I. 1803, *they shall prepare such regulation in the form so prescribed, with a letter stating at large the grounds on which it may be proposed; accompanied by copies of any documents therein referred to, which may not have been already transmitted to the Governor General in Council. The collectors are also authorized to propose to the Board of Revenue, in the prescribed form, any regulations regarding matters, within their cognizance, which their local knowledge and experience may suggest to them as advisable to be adopted; and provided they are drawn out according to the form directed by Regulation I.* 1803, *the Board of Revenue shall forward the same to the Governor General in Council, whether they*

they approve the regulation proposed or otherwise. If they disapprove it altogether, they shall state the reasons of their disapproval, in a letter to the Governor General in Council, to accompany the regulation proposed by the collector, or a copy of it, and copies of any letter and documents received from him in explanation of it. If they disapprove it in part only, and are of opinion that the remainder should be enacted into a regulation, with any amendments they may think advisable, they shall state their objections to the part disapproved; and, at the same time, submit to the Governor General in Council a draft of the regulation they may judge expedient, with any requisite explanation of the amendments proposed by them.

Who are to forward the same, with their sentiments, to the Governor General in Council.

A. D. 1803. REGULATION XXVII.

A REGULATION *prescribing the Process by which the Collector, and the Tehsildars, are to realize the public Revenue payable from the Lands, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.* —PASSED *by the Governor General in Council, on the 24th March,* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

THE following rules are prescribed for the guidance of the collector, and the *tehsildars*, in realizing the public revenue payable from the lands, in the provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.

Revenue to be collected by *tehsildars*, where no settlement has been made with the proprietor.

II. *First. Tehsildars*, or native collectors, shall be appointed to collect the public dues from those lands, for the payment of the revenue from which, settlements may not have been concluded with the *semindars*, or other actual proprietors; and generally, to collect the revenues of such lands, as the collectors may deem it expedient to place under them.

Tehsildars to be selected by the collectors for the approbation of the Board of Revenue.

Second. The *tehsildars* shall be selected by the collectors, who are required to pay the utmost attention to their character and responsibility. The name of the person proposed for that office, shall be submitted by the collector to the Board of Revenue, and no actual appointment shall take place, without the previous sanction of that Board.

Collections to be made by *tehsildars*, in ordinary cases, not to be less than two, nor beyond three *lacs* of rupees.

No collection, beyond three lacs, to be established without the sanction of the Governor General in Council.

Third. In all practicable cases, the amount of the revenue to be collected by each *tehsildar*, shall not be less than two *lacs* of rupees, nor exceed the sum of three *lacs* of rupees per annum; including every description of collections entrusted to his management. Where it may be deemed expedient by a collector, to entrust a *tehsildar* with a collection exceeding the sum of three *lacs* of rupees, he shall report the same to the Board of Revenue, in order that they may submit such reference for the orders of the Governor General in Council.

No person to hold more than one situation as *tehsildar*.

Principals only to be employed.

Fourth. The collectors shall be careful to prevent persons holding more than one situation as *tehsildar*, by obtaining these appointments in other *pergunnahs*, or in other districts in the names of their connexions or dependants. The collectors shall also be careful that the persons appointed *tehsildars*, are principals, and not employed as agents for their sureties.

Tehsildars to be allowed eleven and a half per cent. on the gross collection.

Fifth. The *tehsildars* shall be allowed eleven and a half per cent. on the amount of their gross collections; in consideration of which, they are to bind themselves to defray all charges, and to cover all risks and expenses whatever of the collections; to make good all balances of revenue which may accrue in their respective jurisdictions; as well as such advances as Government may authorise them to make to *ryots* and others, for the purpose of assisting them in the cultivation of their lands.

Tehsildars to be, generally, responsible for the recovery of the revenue; and in certain other respects.

Tehsildars to maintain a police.

Police in large towns and *gunjes*, to be maintained by Government.

Sixth. In consideration of the allowance, as specified in clause fifth, the *tehsildars* shall further become bound to maintain an efficient police in their respective jurisdictions; with an exception as to cities, large towns, and principal *gunjes*; the police of which will be maintained by Government.

Tehsildars to give security equal to the amount of one year's *kist*.

Seventh. The *tehsildars* shall give good and sufficient security (to be approved of by the Board of Revenue) for the due and faithful performance of the trust reposed in them, to the amount of the largest *kist* recoverable by them, respectively, in each year.

Tehsildars in arrear of one year's *kist*, liable to be removed.

Eighth. A *tehsildar* falling in arrear, to the amount of one whole *kist*, shall be liable to be removed; and a report of the arrear so incurred, shall be made, without delay, to the Board of Revenue.

Tehsildars to make the usual advances of *tuccavy*. Bonds how to be taken for such advances.

Ninth. *Tehsildars* shall make the usual advances of *tuccavy* at the proper periods, for the purchase of seed, cattle, and implements of husbandry; taking bonds for the same, bearing interest at the rate of twelve per cent. per annum. The *tuccavy* bonds shall be attested by the *chowdries*, *canoongoes*, and *mukuddums*; and the number of *beeghas* for the cultivation of which the advance is made, shall be specified in the bond.

All engagements are to be made by the *tehsildars* in the name of Government.

Tenth. All engagements whatever, concluded immediately by the *tehsildars*, shall be made and granted in the name and on the part of Government; in as much as the *tehsildar* acts for, and is to be regarded in all cases, as the officer of Government.

Persons to be entitled to pay their revenue direct to the collector, if injured by the *tehsildar*.

Such persons to find security.

But no separation to be made without the sanction of the Board of Revenue.

Eleventh. Where a person, paying revenue to Government, may be dissatisfied with the conduct of a *tehsildar*, and shall prove, to the satisfaction of the collector, that the *tehsildar* has been guilty of misconduct towards him, such person shall be entitled to the privilege of paying his revenue direct to the treasury of the collector; provided that the complainant shall give good and sufficient security for the regular discharge of his *kists*. But no separation of this nature, shall take place without a previous reference to the Board of Revenue; and the collector shall be careful that the authority, and influence of the *tehsildars*, be not lessened on light and insufficient grounds.

Rules for stationing watchmen on the crops.

Twelfth. The *tehsildars* are to place *shaenahs* or watchmen on the crops, at the expense of the parties to whom they may belong, and are not to allow them to be cut down, or carried away, until the *zemindar* or farmer, in the *mushukhusy* lands, (lands for the payment of the revenue assessed on which a settlement has been concluded,) or the *ryots*, in the lands held *amaunee*, shall have given security for the revenue payable therefrom. If such security shall be given before the ripening of the first crops, the *tehsildar* is not to station watchmen over the crops, nor is any charge to be incurred on account of watchmen, by the persons who may be responsible for the revenue due from the lands. But where such security is not tendered, watchmen are to be stationed, and an allowance, the amount of which is to be regulated by the local custom, is to be made to them, and included in the *deh-kurch*, or village charges, of which the accounts are kept by the *putwarees*. To prevent all undue exactions under the head of *shaenahgee*, or allowance to *shaenahs*, or watchmen, the *tehsildar* is to furnish each watchman with a *dustuck* or writ, prescribing the duty he is to perform. On this *dustuck*, the *canoongoes* are to endorse the name of the watchman, the rate of allowance which, according to established custom, he is to receive, and from whom it is to be levied; and the *canoongoes*, at the end of every month, are to transmit under their official signature, a list of all such *shaenah dustucks*, as they shall have thus attested during the course thereof, together with the rates of *shaenahgee* thereby allowed. The collector is to revise these allowances, and may order them to be reduced whenever they shall appear to him exorbitant.

When payment of the instalments is to be demanded.

Rate of *tullubana*.

× III. The *tehsildars* are not to issue a *dustuck*, or written demand for the payment of any *kist*, or instalment, until it be due. But when any person shall have failed to pay in his *kist* before or on the date on which it may become due, the *tehsildar* is to issue a *dustuck*, and to cause it to be served by a single *peon*, on the party in arrear; who, until he shall have discharged the amount, is to pay to the *peon* employed in serving the *dustuck*, two annas per day, (excepting in districts where custom has fixed the subsistence of *peons* at a lower rate, in which case such lower rate, and no more, shall be exacted,) until the *kist* be paid, or until the *ductuck* be withdrawn, as hereafter provided for. But the defaulter shall not be subject to any further charge, for the *khorack*, or subsistence of the *peon*, or on other account.

Tehsildars prohibited employing *muzkoory peons*. Regulations regarding *peons* entertained as monthly servants.

IV. *Tehsildars* are strictly prohibited from employing *muzkoory peons*, to serve the above-mentioned, or any other *dustucks*. This duty shall be performed solely by *peons* entertained on monthly wages, and who shall have given security for their good conduct, and whose

× Mod.d by 32 R. XVIII of 1814 & C 3 32 R. XI of 1822

whose wages shall be paid by the *tehsildars* out of the *tullubbana*, or subsistence money, that may be levied from the persons on whom they may serve the *dustucks*: the *tehsildar* making good the sum necessary to sustain such charge in all cases of deficiency. Every *tehsildar* is to report to the collector, the number and names of the *peons* thus entertained by him, as well as such occasional dismissions, vacancies, and appointments, as may occur in this part of his establishment; and the collector is to furnish the *tehsildars* with a correspondent number of *chuprasies* or badges, which such *peons* are to wear, and without which, they are not to perform any official act. On each of these badges shall be inscribed in the Persian language, and in the Hindoostanee language and Nagree character, "*Chuprasy* of the *tehsildar* of ———" (name of the *mohaul* or district, under the charge of the *tehsildar* in whose service the *peon* may be employed.)

Canoongoes to attest all *dustucks* or written demands for the revenue, and to report the same to the collector; and to transmit an attested list thereof to the collector.

How the *tullubbana* is to be appropriated.

V. Every *dustuck* issued by a *tehsildar* for enforcing payment of a *kist*, shall be attested by the *canoongoes* officiating in the *tehsildary cutcherree*, who, on the eighth of each succeeding month, are to transmit to the collector, an attested list of all such *dustucks*, as may have been thus issued; and the *peons*, on their return with their *dustucks*, shall deliver in an account to the *canoongoes* of the *tullubbana* collected by them in conformity to their *dustucks*, and shall pay the amount into the treasury of the *tehsildar*, receiving from the treasurer regular receipts for the sums so paid. The *peons* are immediately to deliver these receipts into the *dufter* or office of the *tehsildar*, who on the twentieth of every succeeding month, is to forward an attested list of them to the collector; carrying the surplus collections on this account to the credit of Government. The collector is to cause the list to be examined, and to be checked by the attested list of the *dustucks* issued, which he will have previously received from the *canoongoes*, and to have entered monthly in the treasury accounts the neat realized amount of such *tullubbana*.

Tehsildars liable to be removed by the collector, with the sanction of the Board of Revenue, and liable to be prosecuted.

VI. The *tehsildars* are declared liable to be removed from their offices by the collector, with the sanction of the Board of Revenue, and to be prosecuted on the ground of their engagements, either during the course, or at the end, of the year.

Process to be observed by the collector in realizing the successive instalments, as they fall due.

x VII. The *kists*, or instalments of each month, receivable from the *tehsildars*, and the *huzoory malguzars*, are to be paid between the first and the seventh of each succeeding month; and for all arrears not then paid, the collector, at his discretion, on a consideration of the credit and responsibility of the parties, is either to issue his *dustuck*, or to send only a written notice by letter, or a verbal intimation, through the *vakeels* of the parties (who are always to be in attendance at the *cutcherree*) to pay in their *kists*. But to those who shall not have paid the amount due from them by the fourteenth of the month, the collector shall issue *dustucks*, under his seal and signature and countersigned by the *dewan*, on the fifteenth of the month, and the *peons* serving such *dustucks* shall be directed to bring the party or parties to whom they are addressed, without delay, to the collector's *cutcherree*, and also from the date of their *dustuck*, to levy *tullubbana*, at the rate of two annas per day, until the *kist* be discharged, or until the *dustuck* be withdrawn, as hereafter provided for. Such *dustucks*, and all other summonses of the collector, are to be served by the badge *peons* on his establishment of public officers, hired at monthly wages. In cases however of unavoidable necessity, the collector is permitted to employ *muzcoory peons*. And on particular occasions, when from the distance of situation, the necessity for despatch, or other cause, the collector shall deem it proper, instead of a *peon*, to employ a horseman (*sowar*) in the serving of any written demand for revenue, the *tullubbana* to be collected by the horseman, shall be at the fixed rate of four annas per day; until the demand specified in the *dustuck* be liquidated. But no *sowars* are to be employed by the collector in the serving of *dustucks*, excepting those who form part of his public establishment, and are entertained on monthly wages. All persons, whether employed on monthly wages, or those termed *muzcoory*, and also *sowars* are to give security, not to exact or receive under any pretence, any sum or sums, or to accept of any subsistence for themselves, or their horses, from any person or persons, to whom they may be thus sent to demand payment of revenue, under the penalty of being made to refund double the amount, either by the collector, on such exaction or receipt coming to his knowledge, or in case of their being afterwards prosecuted on this account, in the *zillah* courts.

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How the sudder *tullubbana* levied by the collector is to be appropriated.

VIII. The *tullubbana* collected as above prescribed, is to be accounted for at the end of every month by the collector's *naxir*, and the *jemadar* of the *sowars*, to the treasurer of the collector, and the said *naxir* and *jemadar* are then to pay in the amount thereof, according to an attested statement under the collector's official seal and signature. This statement is to remain as a voucher in the said treasury, from the gross receipt specified in which there is only to be deducted the subsistence money allowed to the *peons* or horsemen, as authorized in the preceding section.

On whom the collector is to make his demand for the *huzoory* revenue.

IX. Where a *huzoory malgusar* may fall in arrears, the collector may address his *dustuck* or written demand for the *kist*, either to the defaulter himself, or to his *malzamin* or security, or if necessary to both.

On whom the *tehsildars* are to make their demand for the revenue payable through them.

X. With respect to the lands, the revenue assessed on which is not paid *huzoory*, or immediately to the collector, the *tehsildar*, at the expiration of the fifth day, from the date of his *dustuck* having been served without success on the party or parties in arrear, is to cause similar written demands, under the same attestations, to be served on their sureties, and, when the revenue in demand, together with the *tullubbana*, shall be realized from the principal or surety, either at their places of abode, in consequence of the *dustuck* being served upon them, or at the *tehsildar's cutcherree*, to which the *peons* are to convey them by such time, (consistently with the period fixed in the ensuing section, for their being sent in to the collector,) as shall be specified by the *tehsildar* in the *dustuck*, such *dustuck* or *dustucks*, together with the *peons* serving the same, shall thereon be immediately withdrawn.

When the *tehsildars* are to send in defaulters to the collector.

XI. The *tehsildars* are not to confine in jail, or put into stocks or irons, any persons, whether principals or sureties, who may be in arrears on account of the revenue; but in case of any such defaulter not paying up the demand on him by the tenth day after a *dustuck* shall have been served on a principal, or by the fifth day after the *dustuck* issued on his surety, such party or parties are invariably to be sent with a written report of the circumstances to the collector. In such instances, and also in similar cases of *huzoory malgusars*, or their securities, on whom he may have sent a *dustuck* or written demand, and, summoned in the first instance, the collector, after enquiring into the circumstances, shall within ten days after the arrival of such defaulter or defaulters at his *cutcherree*, (during which period of ten days he may either confine their persons, or only keep over them the *peons* with whom they arrived,) either discharge him or them, on his or their paying the amount in demand, or satisfying the collector that he or they will make good such payment before the expiration of the current Hindoo month; or otherwise, the collector is to cause the party or parties in question after the expiration of the ten days, to be conveyed to the public jail of the nearest court of *adawlut*, and the collector is to apply to the court by motion in writing, to be made in open court, (if the court shall be sitting,) through the pleader of Government, for the confinement of the defaulter. If the court shall not be sitting, the motion is to be presented to the judge out of court. The motion is to specify the amount of the arrear due from the defaulter, and the date on which it became payable. Upon receipt of the motion, the judge is immediately to order the defaulter to be confined in the jail of the *adawlut*, and detain him, until he shall have discharged the arrear for which he may have been taken into custody, and all subsequent arrears that may become due during his confinement, or until the collector shall apply to the court by motion, made as above directed, to have him released.

Period during which the collector may confine defaulters.

When they are to be committed to the jail of the city and *zillah* court.

Motion in writing to be made to the court on this occasion.

Judges to confine the defaulter.

Cases in which the defaulters are to be charged with interest on arrears.

XII. To prevent proprietors or farmers of land, withholding the payment of the public revenue, to derive the benefit of the use of the money, or otherwise applying it to their private purposes, the collectors are empowered, in every case, in which it shall appear to them that a *talookdar*, *zemindar*, or other actual proprietor, or farmer of land, has without sufficient cause established to their satisfaction, withheld the payment of the public dues, to charge the defaulter with interest on the arrear, at the rate of twelve per cent. per annum, from the period at which it may become payable, until the date on which it may be discharged. The payment of the interest shall be enforced by the same process which is prescribed for compelling the discharge of arrears of the stipulated public revenue. In all cases in which the collectors may exercise the power vested in them by this section, they are immediately to report

Payment of the interest how to be enforced.

the same to the Board of Revenue, who are authorized to grant a remission of the whole, or any part of the interest levied, should they deem it advisable.

Cases in which the collector is directed to suspend the exercise of the powers vested in him by Section 11.

XIII. If the crops in any estate or farm shall have been damaged, or destroyed by drought, inundation, or other calamity of season, or from any cause not originating in the neglect, mismanagement, or misconduct of the proprietor or farmer, and such proprietor or farmer shall fall in arrears, so as to subject himself to be confined under Section 11, and the collector shall be satisfied from the best information which he may be able to obtain, that the defaulter is unable to make good the arrears by the end of the current month, as required in the said section, either from the collections on account of such year from his estate or farm, or from his private funds, or property, or by a loan, he is directed to suspend the exercise of the powers vested in him by Section 11, for the confinement of the defaulter. But the collector is immediately to report the circumstances of the case to the Board of Revenue, with his reasons for not proceeding against the defaulter, and to wait for, and be guided by the instructions which he may receive from them.

Precautions to be taken for the security of the revenue, on the confinement of a proprietor or farmer of land.

XIV. *First.* In all cases of the default, or confinement of parties, from whom revenue may be due, the collector is to issue directions to the *tehsildar* of the district in which the lands of the defaulter may be situated, to levy the public revenue, by realizing in concert with the *canoongoes*, the defaulter's full share of the assessment on the crops to the end of the year, or until such time as he or his surety, in case he shall have given security, shall have paid up the balance, together with the charges of the *peons* who may have taken him into custody.

In what cases the collector may cause the personal property of defaulting landholders to be distrained.

Second. Provided, however, that whenever a proprietor or farmer of land shall subject himself to confinement, and his estate or farm to attachment, for arrears of revenue under the provisions contained in this regulation, and the collector shall be of opinion that instead of confining the person of the defaulter, and attaching his estate or farm, the arrear due from him will be more speedily discharged by distraining and selling any personal property belonging to the defaulter, according to the process prescribed in Regulation XXVIII. 1803, whereby landholders and farmers are authorized to recover arrears of rent from their undertenants by distraining and selling the personal property of the latter; or if, in any case, notwithstanding the confinement of a defaulting proprietor or farmer, and the attachment of his estate or farm for an arrear of revenue, such arrear be not discharged, and the defaulter or his surety shall possess any personal property from which the same can be made good, the collector may in all such cases, direct the *tehsildar* of the district in which the personal property of the defaulter and his surety may be forthcoming; or, if it be a *huzoory mohaul*, any officer whom he may think proper to appoint for the purposes, to cause the personal property of the defaulter or his surety to be distrained and sold, as far as shall be necessary for the recovery of the arrear due, in the mode, and under the restrictions prescribed by the regulations with regard to the distress and sale of the personal property of under-tenants for the recovery of arrears of rent due from them to proprietors and farmers. The collector also, in all cases wherein he may judge it expedient, is empowered to vest the *tehsildars* with discretionary authority to proceed against defaulters within their respective *tehsildaries* by the established process of distress and sale, without waiting for his previous sanction; but in such cases the *tehsildars* will be held personally answerable, if the amount for which the distress may be levied is found not to have been justly due; and in all cases wherein property may be distrained and brought to sale by the *tehsildars*, they will be held responsible for any wilful deviation from the regulations, as prescribed with regard to the agents of landholders and farmers in Regulation XXVIII. 1803.

In what mode, and under what restrictions, such distress and sale to take place.

In what cases the collector may vest *tehsildars* with a discretionary authority to proceed against defaulters by established process of distress and sale.

Responsibility of *tehsildars* in such cases, and whenever property may be distrained and brought to sale by them.

From whom and in what proportions the revenue is to be collected, on Government's proceeding to realize the demands of defaulters from the *putteedars* and *ryots*.

XV. *First.* The sequestration of the profits of the party or parties in arrear, is to extend also to the profits of all those of the brethren, or *putteedars*, whose names may be inserted in the *pottah* of Government, and who shall have executed the corresponding *cabooleat*; without however infringing the rights of the inferior *putteedars* or sharers, or in *talookas*, of the dependant village *zemindars*, or under-renters; or, in any case, or under any description of tenure, of the common *ryots*, from whom the collections are to be made by the *tehsildar*, according to their engagements with the defaulter or defaulters; or where no such engagements exist, according to the established rules and usages of the village or *talooka*; and

and in addition to the accounts to be kept by the *canoongoes*, the defaulter may appoint a person to keep a counterpart of the accounts of the receipts and disbursements.

Attachments for arrears when to be withdrawn.

Second. Whenever the estates of defaulting proprietors, or the farms of defaulting farmers, shall be attached under Section 14, or clause first, if the arrear due, with any further arrear that may become due from the same proprietor or farmer, be discharged from the collections or otherwise at any period before the end of the current Fussily year, together with the amount of any expense attending the attachment, such attachment shall be immediately withdrawn, and a full and fair account rendered of all receipts and disbursements during the continuance of it.

Injunction to the *tehsildar* in clause first, to collect from the *ryots* according to their engagements with the defaulter, not to extend to collusive engagements.

Third. The injunctions to the *tehsildar* in clause first, to collect from the *ryots* according to their engagements with the defaulter, is not to be considered applicable to engagements evidently collusive, which may have been contracted in expectation of the attachment, with a view to prevent the officers of Government from receiving the just rents during the continuance of it. In such cases, the *tehsildar* is to collect according to the established rates and usages of the *pergunnah*, as he is directed to do in cases where no engagement exists between the defaulter and his under-tenants. It is further hereby declared, that after the promulgation of this regulation, no anticipation of the rent will be admitted in cases of attachment. The landholders and farmers are prohibited from demanding or receiving, and the *ryots* and other under-tenants are prohibited from paying, any part of the rent receivable by the former and payable by the latter, before the stipulated or usual period of payment, according to the *kistbundy* or other engagements, or established local usage; and no person hereafter making anticipated payments, against this prohibition, or producing receipts for such, whether collusive or otherwise, shall be entitled to credit for the amount from the officers of Government who may attach the lands or farm, or from the landholder or farmer making the attachment, if it be made for arrears due from an under-tenant, under the provisions contained in this regulation. Nor shall credit be allowed for any payment made to a defaulter, after proclamation of the attachment of his estate or farm, until further proclamation be made that such attachment has been withdrawn, unless it can be clearly shewn that such proclamation, which is to be made as public as possible throughout the attached lands immediately on the attachment taking place, was notwithstanding unknown to the party making payment to the defaulter at the time when such payment may have been made. Provided, however, that nothing herein contained shall be understood to exonerate the defaulter from crediting his under-tenants, or otherwise accounting for, all such sums received by him, whether in anticipation of the rents, or subsequently to the attachment of his estate or farm, the above restrictions having reference to the attachment only.

Further provisions against anticipation of the rents.

Accounts to be furnished by *putwarees* in cases of attachment.

Collector to name general appointment of *putwarees* according to Regulation XXIX. 1803.

Fourth. In all cases of attachment, the village *putwarees* required to be appointed by Regulation XXIX. 1803, will of course be bound to furnish the collector and *tehsildar*, or other officer deputed by him, with the accounts directed to be kept by them; and the collector is hereby required to take immediate measures for ascertaining, whether the *putwarees* have been universally appointed throughout the provinces as enjoined in the said regulation, as well as to cause their immediate appointment where they may be found wanting, by requiring immediate compliance from the landholders with the regulation in question, under the prescribed penalty which, if necessary, is to be enforced in the mode provided. Defaulting proprietors and farmers of land, whose estates or farms may be attached under this regulation, are also required to furnish the collector with any accounts that may be required from them, relative to the *jumma*, collections, and outstanding balances of the current year, or of preceding years, which may be in their possession, as well as to cause their agents of every description, who may have been employed in the collections of the current year, to attend the collector, *tehsildar*, or other officer appointed by him. Any proprietor or farmer, who, on receiving a written requisition from the collector, under his official seal and signature to the above effect, shall refuse or neglect to comply therewith, shall be liable to such fine as the Board of Revenue, with the sanction of the Governor General in Council, may think proper to impose upon him on the collector's report of the circumstances of the case; and the Governor General in Council reserves to himself the power of ordering the imprisonment of any landholder or other person, who may persist in refusing to deliver up the accounts required from him in any particular instance.

Proprietors and farmers of attached lands to furnish collectors with any accounts required from them, in their possession.

And to cause their agents to attend the collector or officers appointed by him.

Penalty for non-compliance with this rule.

XVI. *First.* All complaints for any breach of the rules contained in the preceding sections, either by direct infraction of them, or by unnecessary severity in the execution of them, are declared cognizable in the *zillah* courts, to which any of the parties may apply at all times, either in person or by *vakeel*. In such cases, the judge is to cause the collector, or *tehsildar*, (according as the act complained of may have been done by the former or the latter,) to be immediately served with a copy of the complaint, fixing a date, according to the distance of place, for the party complained against to deliver in his answer. On the receipt of such copy and notice, the collector or *tehsildar* respectively, within the period limited in the notice, shall give in his answer to the court, stating therein the amount in demand from the party or parties on whom the *dustuck* shall have been issued; and if the said party or parties shall not thereon dispute the justice of the demand, the judge shall stop all further proceedings in the cause. On the contrary, if the plaintiff, or plaintiffs, in their replication, or that of their *vakeel*, delivered into court, shall not allow of the justice of the demand, and shall thereon tender to the court sufficient *mutsuminy* or security, as well for the sum actually in demand, as for such further amount as may become due from the growing *kists*, during the trial, and condition to abide by such decree as the court may pass, including all costs and charges, in case the plaintiff or plaintiffs be cast; the judge shall issue a written precept, addressed to the *tehsildar* or collector, (according as the former or the latter may be the defendant,) to withdraw the *dustuck* and *peon* from the plaintiff or plaintiffs in the cause. In conformity to the precept, the defendant shall withdraw his process on the party or parties complaining, and give in his answer, when if no part of the claim shall be found to be due from the complainant, the judge shall discharge him, and decree such costs and damages against the *tehsildar* or the collector, as he may deem equitable, upon a consideration of the circumstances of the case; and the damages so decreed shall be defrayed either by Government, or the party prosecuted, according to the rules for such cases hereafter laid down in this regulation. If only a part of the demand shall appear due, the court is to discharge the prisoner upon his paying such part. In both cases, however, the court, previous to releasing the prisoner, shall take good security from him to perform the final decision in appeal, in the event of the cause being appealed by the *tehsildar* or collector, in consequence of orders from the Board of Revenue, or without their orders. If the *tehsildar* or collector shall state to the court that an appeal will not be preferred from the decision, or, if an appeal shall not be lodged within the time limited for preferring appeals to the provincial court of appeal, the judge shall release the person so confined without taking such security.

Tehsildar and collector liable to be prosecuted for any breach of the preceding rules.

Persons on whom a demand for revenue may be made by any *tehsildar* or collector, at liberty to institute a suit to try the justice of it.

Second. That part of the preceding clause which authorizes the judge of the court of *adawlut*, on security being given by the plaintiff to issue a precept for his discharge from confinement and personal restraint, shall not be considered as directing the attachment of the plaintiff's estate or farm to be withdrawn, unless the arrear of revenue claimed from him by the collector or *tehsildar* be paid; nor shall the distress and sale of any personal property belonging to the plaintiff, be stopped on account of his having instituted a suit against the collector or *tehsildar*, contesting the justice of the demand upon him. Provided, however, that if any proprietor or farmer of land from whom an arrear of revenue may be demanded, shall, by a written representation to the collector, deny the justness of such demand, but to prevent any coercive process being issued against him, shall discharge the demand, and shall afterwards establish by a suit in the court of *adawlut*, that the amount so paid by him, or any part thereof, was not justly due, the amount of the excess so established shall be immediately repaid from the public treasury, with interest at the rate of twelve per cent. per annum, from the date on which such excess may have been received to the date of repayment.

Attachments not to be withdrawn until the arrear demanded be paid.

Nor distress and sale of personal property to be stopped on account of suits having been instituted.

Provision for repayment of any overplus with interest, if established in the courts of justice.

XVII. *First.* At the expiration of the year, if an arrear shall remain due from any *talookdar* or *zemindar*, or other actual proprietor of land, the collector is to communicate the amount to the Board of Revenue, accompanied by a detailed account of the causes of the failure, when, as far as regards the lands of proprietors, if the deficiency shall clearly appear to have proceeded from his or their embezzlement or misappropriation of the funds arising from the produce, and that there be no immediate prospect of the party or parties, or his or their sureties, making good the amount; the Board of Revenue, (provided from the communications of the collector, it shall appear to them expedient so to do, and the Governor

How lands of proprietors in arrear at the end of the year, are to be disposed of.

In the case of the arrears arising from the proprietor's misconduct,

Governor General in Council shall approve of the measure,) may authorize the collector to transfer the rights of the defaulting landholder, to such one or more of his *putteedars*, or sharers, as shall be able and willing, in consideration of such transfer, to pay up the balance due to Government. In such case, the defaulter is not to be entirely excluded, but is to retain, as an inferior *putteedar*, such a portion of *neej-jote* ground, as, with the appropriation of the collector, the *putteedars* who may succeed him, shall be willing to allow him to hold, at the established rate of rent, payable by the most inferior of the family *putteedars* of the same village or *talooka*; provided however, that no *putteedar* in arrear on account of rent to the defaulter shall be allowed to take advantage of this option, which the collector is successively to tender in preference to the others, in proportion to the greater or less interest they may severally possess in the estate, until one or more to them accept, or they all decline it.

His rights may be transferred to his *putteedars* or partners, on their paying up the balance;

or his profits may be sequestered by Government.

Second. Where such transfer of a defaulter's rights, to one or more of his *putteedars* or sharers, shall not prove effectual in realizing the balance; or in cases where the deficiency cannot be proved to have arisen from embezzlement on the part of the landholder, but where the cause may not be of such a nature as to induce the Governor General in Council to remit the amount; the Board of Revenue, with the sanction of the Governor General in Council, may direct the collector, either to continue the defaulter in possession, on his engaging in such manner as shall be deemed satisfactory, to pay up his balance with the future revenue, or sequester to the use of Government, the ensuing year's profits of the defaulter, in the manner, and under the restrictions, specified in Section 15. The last mentioned measure shall be adopted, where there is a reasonable prospect of at least realizing thereby, the assessment payable to Government in the ensuing years; and in such instances, it shall be the duty of the collector, in like manner as in all cases in which the lands are held *amaunee*, to acquire the fullest information, and to propose to the Board of Revenue, such improvements of the *jydaad*, or funds, as may appear practicable, by making advances for *tuccavy*, *gilandazee*, the cutting down of *jungles*, or by the construction of embankments, or water-courses, so as not only to prevent any dimunition of the produce of the lands, but to improve and increase it.

Case of a proprietor falling in balance through misfortune.

Duty of the collector in respect to the improvement of *amaunee* lands.

Third. The profits arising from the surplus collections over and above the former *jumma* adjusted by the settlement, after defraying the charges of improvement, whilst Government think fit to leave the lands *amaunee*, shall be appropriated entirely to the use of the public, in the cases of all defaulting proprietors who may be dispossessed under the preceding clause, for embezzlement or misappropriation of the funds for the payment of the public revenue; and such *zemindars* shall not be reinstated, until from their own means they shall have paid up, or given satisfactory security for discharging the balance incurred, as well as to repay to Government the principal of the amount it shall have advanced for improving the estate. But in the other case stated in clause second, in which embezzlement shall not have been clearly proved against the defaulting landholders, the profits or surplus collections, shall be set off against the arrears due from them, and they shall be entitled to reinstatement, as soon as the arrear shall thus, or otherwise from their own funds, have been discharged, or when they shall deliver in satisfactory security for the amount, inclusive of the whole or the part of the charges of improvement incurred during their dispossession, for which Government, on a review of the circumstances of the case, shall think fit to render them responsible.

How the profits arising from the land of dispossessed landholders are to be appropriated;

in the instances in which such landholders have been dispossessed for misconduct;

and in those where such misconduct is not ascertained.

Fourth. The rules in the preceding clauses of this Section, are to be understood, with this reservation, that in all cases where *talookdars*, *zemindars*, or other land owners, shall be dispossessed for arrears of revenue, Government shall have the option of letting their lands on lease, to any person or persons, in case of the dispossessed proprietors omitting, or refusing to resume the management of their lands, under the conditions that may be offered to them.

Right reserved to Government to let the lands of the dispossessed proprietors to whomsoever they shall think proper;

and to dispose of the lands at public sale for the recovery of arrears.

Fifth*. *In instances of embezzlement, or misappropriation of the funds from which the revenue may be payable, by any landholder, or in any other cases in which it may be deemed advisable; the Board of Revenue, (in addition to such recourse as is authorized*

* Rescinded by clause first, Section 2, Regulation XI. 1822.

to be had on the surety,) may recommend to the Governor General in Council, the sale of the lands of the defaulter, under the regulations prescribed for sales of land for the recovery of arrears of revenue, which renders their property, real and personal, liable to sale.

How lands rented by farmers in arrear at the end of the year, are to be disposed of.

XVIII. *First.* Where arrears shall be due by farmers near the close of the year, the recovery of which, either through themselves, or their sureties, shall not have been effected by its expiration; the collector, with the sanction of the Board of Revenue, is to have recourse, in the first instance, to the person who shall appear to him to have the best claim to the village or *talooka* in question, who on paying off the farmer's balance, or on giving good security to pay it by instalments in the course of the ensuing year, shall be reinstated in the estate. This, however, is not intended to decide the question of right to such estate, as any person who may consider himself to have a better claim to it than the person whom the collector shall have put in possession, is at liberty to prefer the same to the judge of the *zillah* court of *adawlut*, within whose jurisdiction the lands shall be situated.

Such lands to be tendered, in the first instance, to the persons who shall appear to have the best claim.

Conditions of the tender.

Dispossiture, in this way by the collector, no bar to the legal title being tried by the court of *adawlut*.

Second. Where there are not any original proprietors, or where they shall decline taking upon themselves the balance of the farmer, the collector shall offer the village or *talook* to the *mocuddums* or *purdhauns*, and shall conclude the settlement with them for the same, on their agreeing to the terms specified in the preceding clause. In instances in which there are not any original proprietors, or where they shall decline taking upon themselves the balance of the farmer, and in which the *mocuddums* or *purdhauns* shall also decline to take upon themselves a similar responsibility, the farmer shall be continued, on his stipulating in such manner as shall be deemed satisfactory, to pay off his balance with the future revenue; or otherwise the farm is to be re-let, for such term as Government may direct, to such other person or persons, as in consideration of such lease, shall immediately pay up, or find satisfactory security for the removed farmer's balance, or the part of it, the payment of which shall be required.

Where no original proprietors may appear or where they shall not stipulate, the tender to be made to the *mocuddums* or *purdhauns*.

In failure of either of the above, the farmer may be continued on a satisfactory stipulation; or, otherwise, the farm to be let to some other person;

Third. Where neither the original proprietor shall be reinstated, nor the settlement be made with the *mocuddums* or *purdhauns*, nor the farmer in arrear be continued, nor any new farmer undertake to discharge the balance incurred, or such part thereof as Government may require, the lands are to continue *amaunee* under the same kind of management, and regard to their improvement, as is directed in clause second, of the preceding section, to be observed in respect to lands from which *zemindars* shall have been dispossessed.

or, to be held *amaunee*, under the collector.

Fourth. The Board of Revenue, in all cases in which they may judge it advisable, (in addition to such recourse as is authorized to be had on the surety,) may recommend to the Governor General in Council, the sale of the property of farmers in arrears, in conformity to the tenor of their engagements.

Property of farmers may be disposed of for the recovery of arrears.

XIX. In cases in which arrears of revenue shall be stated to be outstanding against any actual proprietor or farmer of land, who shall have given the security required, and any actual proprietor or farmer of land, who shall have given the security required, and instituted a suit under Section 16, to try the justness of the arrear demanded of him, his lands, or other property, shall not be liable to sale for the arrears so claimed, until a final decision shall be passed in the cause, nor are lands, in any case whatever, to be sold for the discharge of arrears of revenue, without the sanction of the Governor General in Council.*

Lands of proprietors, or the property of farmers, not to be sold for demands of revenue which may be under trial in the courts of justice, until the cause is finally decided.

Lands not to be sold for arrears without the sanction of the Governor General in Council.

XX. If a *teshildar* shall issue the process prescribed in Sections 3, or 10, against any *zemindar*, or other actual proprietor of land, or any farmer, or surety for payment of the amount of the instalment in demand, or of any other sum or arrears of revenue due, and the party to whom such process may be addressed, shall refuse to obey, or resist, or cause to be resisted, the *peon* deputed to serve such process, or abscond from the *peon*, after he shall have served such process, or retire to any place, so that the process cannot be served on him; the *tehsildar* who may issue the writing, is immediately to represent the case to the collector, and to transmit a *sooruthaul*, or circumstantial report of it, under the seal of the *cauzy*, and the attestations of the *canoongoes*; whereupon, if the party thus accused shall not immediately have made his appearance at the collector's *cutcherree*, the collector shall issue a summons to him requiring him to repair to his *cutcherree*, for the explanation of his conduct, and for the payment of his *kist*, along with the two *peons*, or the single *sowar*; either of whom,

Teshildar how to proceed when the proprietor or farmer of land refuses to pay his arrears, or resists the process issued by him under Section 3, and 10.

Teshildar to advise the collector.

Collector to summon the party.

* Rescinded by clause first, Section 2, Regulation XI. 1822.

the

the collector, at his discretion, may depute to serve this summons. Upon the arrival of the party at the *cutcherree* of the collector, the latter is to inquire into the circumstances of the case, and as may appear to him proper on a consideration of them, either order the offender to be committed to temporary confinement for any term not exceeding ten days, or to exact sufficient *hazir* or *fuel zaminy*, from him. If the non-attendance of the party, in the first instance, shall be found to have arisen from any misconduct in the *tehsildar's peon*, who served the process, he is to be dismissed, and declared incapable of being again employed in any revenue capacity whatsoever, and accordingly, no *tehsildar* shall afterwards employ him; and the *tehsildar* shall also be removed, in case the resistance of the party served with the process, shall appear to the collector to have arisen from the injustice of the demand of revenue made on him. Of all orders for the confinement or dismission of *peons* or *tehsildars* under this regulation, the collector is to make a separate monthly report to the Board of Revenue, who are thereon to issue such farther instructions for his guidance, as they may think proper.

Extent of the collector's authority in the cognizance and punishment of such offences.

Collector to cause to be filed of record in the courts of justice, notices of the confinement of *zemindars* or farmers under Section 20.

XXI. In all cases in which the collector shall order any *zemindar* or farmer to be confined, under the authority vested in him by Section 20, he shall cause a notice thereof, and of the date from which such imprisonment is to commence, to be made through the *vakeel* of Government, to the judge of the *zillah* court of *adawlut* within whose jurisdiction the lands of such *zemindar* or farmer shall be situated; and such notices are to be filed of record in the courts, to guard against any undue protraction of the term of such commitments.

Collector how to proceed when a proprietor of land refuses to obey or resists the process, issued by him under Section 20, or escapes from the *peons*, or prevents the process being served upon him.

XXII. If the party, (being a *talookdar*, *zemindar*, or other actual proprietor of land,) against whom the collector shall have issued process at the instance of the *tehsildar*, as prescribed in Section 20, shall refuse to obey, or resist, or avoid compliance with the requisition of the process; or, if in the first instance, the collector shall have issued the process prescribed in Section 9, against any *huzoory zemindar*, or other actual proprietor of land, on account of arrears of public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the *peons* deputed by the collector to convey him to jail, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place so that the process cannot be served upon him, the collector is immediately to represent the circumstances, through the *vakeel* of Government, to the *zillah* court of *adawlut* within the jurisdiction of which, the lands on account whereof the arrears shall be due, may be situated; and upon the *peon* or *peons* deputed to execute the process, or any two or more credible persons, making oath to the truth of the circumstances stated in the representation of the collector the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, shall require the defaulter by a publication in writing, to deliver himself into the custody of the court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Persian language, and the Hindoostanee language and Nagree character, and shall be fixed up as early after the date of it as may be practicable, at his usual place of abode, or the principal *cutcherree* in the estate on account of which the arrears may be due, and the office of the collector, and the court-room of the *adawlut* of the *zillah*; and in the mean time, the collector is to cause the rents and revenues of the estate of the defaulter to be realized on behalf of Government, in the manner specified in Sections 14, and 15.

Judge upon the charge appearing to him well founded,

to issue a publication, requiring the defaulter to deliver himself up to the court in four weeks.

In what language the publication is to be written, and where, and when, it is to be fixed up.

Decree to be passed by the court, in the event of the defaulter not surrendering himself within the limited period, or of his delivering himself up within the time, and the charge being proved against him.

Court to transmit the decree and proceedings to the Governor General in Council, if the defaulter should not appeal within the prescribed time.

XXIII. If the defaulter shall not surrender himself, before the expiration of the period limited in the publication directed to be made in Section 22; or if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, and that which the collector may adduce in support of his representation, it shall be proved to the satisfaction of the court, that the defaulter is guilty of the charge, the court is to decree the proprietary right of the defaulter, and his heirs, in the estate on account of which the arrears may be due, forfeited to Government. If the defaulter, shall not appeal from the decree to the provincial court of appeal within the time limited for preferring appeals to that court in Section 12, Regulation IV.

1803, the court is immediately to transmit to the Governor General in Council, a copy of the decree, and of all the proceedings respecting the charge. If the defaulter shall appeal to the provincial court of appeal within the prescribed time, and the court shall confirm the decision of the *zillah* court, and the cause shall not be appealable to the Sudder Dewanny Adawlut; or, if it shall be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring appeals to that court in Section 10, Regulation V. 1803, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the proceedings and decree of the city or *zillah* court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court of appeal, and the Sudder Dewanny Adawlut should confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process prescribed in Sections 9 and 20, or either of them, had been duly served upon him, and he had obeyed it; and the collector is immediately to obtain from the court, a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it or not, as may appear to them proper. If the Board shall order an appeal to be preferred, and it shall be lodged within the limited time, and the provincial court shall reverse the decision of the *zillah* court, and adjudge the proprietary right in the estate forfeited, and the cause shall not be appealable to the Sudder Dewanny Adawlut; or, if it shall be appealable, and an appeal should not be preferred within the limited time, the provincial court is immediately to forward a copy of their proceedings and decree in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If the judge of the *zillah* court, shall decree the charge proved, and the decision shall be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and proceedings of the *zillah* court, and provincial court of appeal, with a letter, stating his objections to the decree of the latter court, to the Board of Revenue, who are to order him to appeal the cause to the Sudder Dewanny Adawlut, (provided the cause shall be appealable,) or not, as they may think proper. If the cause shall be appealed, and the appeal shall be received in the Sudder Dewanny Adawlut, and the court should reverse the decision of the provincial court, and declare the proprietary right in the estate forfeited, the court is immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the provincial court of appeal, under this section, an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last-mentioned court, unless the annual produce of the estate of the defaulter on account of which the arrears may have been demanded, calculated according to the amount paid or payable by the *putteedars*, distinct or common, under-farmers, and *ryots*, to the defaulter, on account of the year in which the decision of the city or *zillah* court may be passed, shall exceed five thousand sicca rupees; and the collector is enjoined to insert generally in the representation which he is directed to make to the *dewanny adawlut* of the *zillah* in Section 22, whether the produce of the estate on account of the year abovementioned, according to the best information he may have been able to obtain, exceeds or falls short of five thousand sicca rupees; but without specifying the actual amount of the produce. If the defaulter shall not deliver himself up within the prescribed time, or if he shall surrender himself by the limited period, and the collector shall have stated the produce of the estate to be under five thousand sicca rupees, and the defaulter shall not deny the truth of the collector's statement in his answer to the charge, and the cause should be afterwards brought before the provincial court of appeal, an appeal shall not lie from the decision of that court to the Sudder Dewanny Adawlut. If the collector shall represent that the produce of the estate for the year before-mentioned, exceeds or falls short of five thousand sicca rupees, and the defaulter should appear with in the limited time, and in his answer to the charge, object to the statement, the judge is to try the objections, and pass such decision upon them as may appear to him equitable. If the cause should be afterwards brought before the provincial court of appeal, and no objection be offered by either party to the decision of the *zillah*

If the defaulter should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings, to the Governor General in Council, in the event of the defaulter not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed, in case the suit should be appealed to them, and they should confirm the decision of the provincial court.

Collector how to proceed if the *zillah* court should adjudge the charge not proved.

Rule for cases in which the provincial court of appeal may reverse such decisions of the *zillah* courts.

Collector how to proceed, if the charge should be judged proved in the *zillah* court, and the provincial court of appeal shall reverse the decision.

Rule for determining from what decrees of the provincial court of appeal passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

zillah court on the collector's statement of the produce of the estate, it is to be held accurate. If objections should be offered, the provincial court is to try the objections, and pass such decision upon them as may appear to it equitable. If an appeal from the decree of the provincial court should be presented to the Sudder Dewanny Adawlut, and the admission or rejection of the appeal, should depend upon the produce of the estate for the year beforementioned, exceeding or falling short of five thousand sicca rupees, the court of Sudder Dewanny Adawlut, is to examine the decisions passed by the court of *adawlut* of the *zillah*, and the provincial court of appeal, respecting the produce of the estate, and either adjudge the cause to be appealable or not, as may appear to them equitable.

Decrees passed under this section not to be carried into execution without the sanction of the Governor General in Council.

Decrees that may be passed under this section, by the court of *adawlut* of any *zillah*, or the provincial court of appeal, or the Sudder Dewanny Adawlut, adjudging the proprietary right in the estate of a defaulter to be forfeited to Government, shall not be carried into execution in any case whatever, without an order from the Governor General in Council, confirming the decree, and directing in what manner the proprietary right in the estate shall be disposed of.

If the estate is decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine.

If the forfeiture is commuted for a fine, by what court and how it is to be levied.

It shall be at the option of the Governor General in Council, either to order the decree to be executed, or to commute the forfeiture for such fine, as upon a consideration of the situation and circumstances in life of the defaulter he may think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture for a fine, the court which shall have transmitted the decree and proceedings to the Governor General in Council, upon receiving notice of the fine that he may impose, are to levy the amount of it, by the same process by which they are directed to enforce decrees of the court, and to pay the amount to the collector.

Process and appeals instituted under this section, to be conducted by the *vakeel* of Government on the part of the collector, and to be carried on at the public expense.

The process which a collector may institute against a defaulter in the court of *adawlut* of the *zillah* under this section, as well as the prosecution or defence of any appeal from the decision of such court which may be preferred to the provincial court of appeal, or from the decree of the provincial court to the Sudder Dewanny Adawlut, in which the collector may be appellant, or respondent, is to be carried on at the public expense, and to be conducted by the *vakeel* of Government, whom the collector is to furnish with the necessary instructions.

Proceeds of the estate of the defaulter whilst attached, to be accounted for to him if the forfeiture should be commuted for a fine.

XXIV. If the defaulter mentioned in Section 22, shall be allowed to retain the proprietary right in his estate, Government is to account to him for the amount received from it during the sequestration, and if it shall exceed the public revenue that was due from the estate, the expenses attending the sequestration, and the fine which may be imposed on the defaulter, the overplus is to be returned to him.

Portion of the defaulter's estate to be sold, if the proceeds should not be adequate to answer all demands against him, and he should not discharge them.

If the sum received through the officers of Government appointed to make the collections during the sequestrations, shall be inadequate to the payment of the several demands abovementioned, and the defaulter shall not make good the deficiency, a portion of his lands is to be sold for the discharge of it.

If the forfeiture should be confirmed, the Governor General in Council to confer the estate on the heirs of the defaulter, or dispose of it at public sale.

XXV. If the decree adjudging the proprietary right in the estate of the defaulter forfeited, shall be confirmed under Section 23, it shall be at the option of the Governor General in Council, either to confer such right upon the heirs of the defaulter, on their agreeing to make good all sums whatever that may be due to Government from the defaulter on account of the estate, and to pay the fixed revenue assessed upon it; or, to dispose of it at public sale, subject to the payment of such revenue. If the estate shall be conferred upon the heirs of the defaulter, he is to be immediately released, if he should be in confinement. If the estate shall be disposed of at public sale, the proceeds of the sale are to be appropriated towards the discharge of the demands of Government, either on account of the public revenue, the expense attending the deputation of the *ameen*, or other native officer appointed to make the collections, or other charges incurred, in consequence of the default of the former proprietor. If no such demand shall be outstanding at the time of the sale, or if any such demand should be due, and the proceeds shall exceed the amount of it, the whole of the proceeds in the first-mentioned case, and the overplus in the second, is to be carried to the public account, or applied in any other manner that the Governor General in Council may direct.

Collector how to proceed if a farmer refuses to obey or resists the process issued by him under Section 20, or escapes from the *peons*,

XXVI. If the party, (being a farmer,) against whom the collector shall have issued his process at the instance of the *tehseldar*, as prescribed in Section 20, shall refuse to obey, or resist, or avoid compliance with the requisition of the process; or, if in the first instance, the collector shall have issued the process, prescribed in Section 9, against any *huzoory*

farmer, on account of arrears of the public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the *peons* deputed by the collector to convey him to jail; or escape, after being taken by them into custody; or abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that the process cannot be served upon him, the collector is immediately to represent the circumstances, through the *vakeel* of Government, to the *adawlut* of the *zillah* wherein the lands on account of which the arrears shall be due may be situated, and upon the *peon* or *peons* deputed to execute the process, or any two or more credible persons making oath to the truth of the circumstances stated in the representation of the collector; the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, is to require the defaulter, by a publication in writing, to deliver himself into the custody of the court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Persian language, and the Hindoostanee language and Nagree character, and shall be fixed up as early after the date of it as may be practicable, at his usual place of abode, or the principal *cutcherree* in the farm, and in the office of the collector, and the court-room of the *adawlut*; and in the mean time the collector is to cause the rents and revenues of the farm of the defaulter to be realized on behalf of Government, as prescribed in Sections 14. and 15. If the defaulter shall not surrender himself before the expiration of the period limited in the publication, or, if he shall deliver himself up within the prescribed time, and after receiving his answers to the charge, and the evidence that he may have to produce in his defence, and that which the collector may adduce in support of his representation, if it shall be proved to the satisfaction of the court that the defaulter is guilty of the charge, the court shall decree the lease of the farmer annulled, from the expiration of the Fussily year in which the decree may be passed. If the defaulter shall not appeal to the provincial court of appeal, within the time limited for preferring appeals to that court, in Section 10, Regulation V. 1803, the court is immediately to transmit to the Governor General in Council, a copy of the decree, and of all the proceedings respecting the charge. If the defaulter shall appeal to the provincial court of appeal within the prescribed time, and that court shall confirm the decision of the *zillah* court; or if the cause shall not be appealable to the Sudder Dewanny Adawlut; or, if it shall be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring appeals to that court, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the city or *zillah* court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court of appeal, and the Sudder Dewanny Adawlut shall confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process in Sections 9. and 20, or either of them, had been duly served upon him, and he had obeyed it, and the collector is immediately to obtain from the court, a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it or not as may appear to them proper. If the Board shall order an appeal to be preferred, and it shall be lodged within the limited time, and the provincial court should reverse the decision of the *zillah* court, and adjudge the lease annulled, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and an appeal shall not be preferred within the limited time, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge proved, and the decision shall be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and proceedings of the *zillah* court, and the provincial court of appeal, with a letter stating his objections to the decree of the latter court, to the Board of Revenue, who are to order him to appeal the cause to the Sudder Dewanny Adawlut, (provided the cause shall be appealable,) or not, as they may think proper. If the cause shall be appealed, and the appeal shall be received in the Sudder Dewanny Adawlut, and that court should reverse the decision

or prevents the process being served upon him.

Judge, upon the charge appearing to him well founded,

to issue a publication requiring the defaulter to deliver himself up to the court in four weeks.

In what language the publication is to be written, and where, and when, it is to be fixed up.

Decree to be passed by the *zillah* court, in the event of the defaulter not surrendering himself within the limited period, or of his delivering himself up within the time, and the charge being proved against him.

Court to transmit the decree and proceedings to the Governor General in Council, if the defaulter should not appeal within the prescribed time.

If the defaulter should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the defaulter's not appealing in time to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed, in case the suit should be appealed to them, and they should confirm the decision of the provincial court.

Collector how to proceed if the *zillah* court should judge the charge not proved.

Rules for cases in which the provincial court of appeal may reverse such decisions of the *zillah* courts.

Rules for cases in which the charge may be judged proved in the *zillah* court, and the provincial court of appeal shall reverse the decision.

cision of the provincial court, and adjudge the lease annulled, the court is immediately to transmit a copy of the decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the provincial court of appeal under this section, an appeal shall be admitted to the Sudder Dewanny Adawlut, it is declared that an appeal shall not lie to the last-mentioned court, unless the *jumma* paid, or payable to Government by the defaulter, on account of the year in which the decree of the *zillah* court may be passed, shall exceed five thousand sicca rupees; and the collector is enjoined to state generally, in the representation which he is above directed to make to the *zillah* court, whether the *jumma* paid or payable by the defaulter in such year, exceeds, or is less than five thousand rupees, but without specifying the exact amount of it; and the rules prescribed in Section 23, regarding objections that may be offered to the statement of the produce of the estates of contumacious proprietors, which the collector is therein directed to present to the *zillah* court, are to be held applicable to the statement of the *jumma* payable by defaulting farmers required to be submitted by the collector in this section. Decrees that may be passed under this section, by the *adawlut* of any *zillah*, or the provincial court of appeal, or the Sudder Dewanny Adawlut, adjudging the lease of a farmer annulled, shall not be carried into execution in any case whatever, without an order from the Governor General in Council confirming the decree. It shall be at the option of the Governor General in Council, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine, as upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed; or, if the defaulter shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements, until the term of them shall expire. If a fine shall be imposed on the defaulter, the court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine, is to levy the amount of it by the same process by which they are directed to enforce decrees of the court, and to pay the amount to the collector. The process which the collector may institute in the *adawlut* of any *zillah*, under this section, as well as any appeal that may be preferred from the decision of the *zillah* court, to the provincial court of appeal, and from the decision of that court to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, are to be defended and carried on at the public expense, and by the *vukeel* of Government, whom the collector is to furnish with the necessary instructions.

Rule for determining from what decrees of the provincial court of appeal passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

Decrees passed under this section not to be carried into execution, without the sanction of the Governor General in Council.

If the lease shall be adjudged annulled, the Governor General in Council may confirm the decree, or commute the annulling of the lease for a fine.

If the decree shall be commuted for a fine, how it is to be levied.

Process and appeals under this section, to be conducted by the *vukeel* of Government on the part of the collector, and at the public expense.

XXVII. If the lease of the defaulter mentioned in Section 26, shall be annulled, he shall receive credit for the collections made by the officers of Government, after deducting the charges incurred which may be admitted; and if any balance shall then remain due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector is to serve the surety with the written demand for the amount, requiring it to be paid at the treasury of the collectorship, within a certain number of days after the day on which the writing may be served by the *peon* to be deputed for that purpose; and in the event of its not being discharged by the time limited in the writing, the collector is to proceed against the surety, and the defaulter also, if he shall be forthcoming, and should not have been previously confined, in the manner in which he is directed to proceed in Section 11, against defaulters in arrear on account of revenue. If there shall be a surplus after discharging all the demands above mentioned, it is to be paid to the defaulter, who shall be at liberty to prosecute in the *zillah* court, the *talookdars*, *zemindars*, *putteedars*, and the under-farmers and *ryots*, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.

Accounts with the defaulter how to be settled, if the lease should be annulled.

Balance, if any due, to be levied from him and his surety.

Surplus, if any, to be paid to the defaulter.

Defaulter to be at liberty to prosecute any proprietors, farmers, or *ryots* for arrears in the *adawlut* of the *zillah* or city.

XXVIII. If the party, (being a surety,) against whom the collector shall have issued his process at the instance of the *tehsildar*, as prescribed in Section 20, shall refuse to obey, or resist, or avoid compliance with the requisition of the process, or if in the first instance, the collector shall have issued the process prescribed in Section 9, against the surety of any proprietor or farmer of land; and such defaulting surety shall refuse to obey, or resist, or

Collector how to proceed when sureties of proprietors or farmers of lands, refuse to obey, or resist the process issued by him under Section 20, or escape from the *peons*, or prevent the process being served upon them.

cause to be resisted, the *peons* thus deputed by the collector, or escape after being taken by them into custody, or abscond, or shut himself up in in his own or any house, or in any building, or retire to any place, so that the process cannot be served upon him, the collector is thereon immediately to represent the circumstances, through the *vakeel* of Government, to the court of *adawlut* of the *zillah*, in the jurisdiction of which the lands on account whereof the arrears shall be due may be situated; and upon the *peon* or *peons* deputed to execute the process, or any two or more credible persons, making oath to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, is to require the defaulter by a publication in writing, to deliver himself into the custody of the court, within four weeks calculating from the day following the date of the publication. The publication is to be written in the Persian language, and the Hindoostanee language and Nagree character, and shall be fixed up as early after the date of it as may be practicable, at his usual place of abode, and in the principal *cutcherree* in the estate or farm, the office of the collector, and the court-room of the *adawlut*. If the defaulter shall not surrender himself before the expiration of the period limited in the publication, or if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge, and the evidence that he may have to produce in his defence, and that which the collector may adduce in support of his representation, if it shall be proved to the satisfaction of the court that the defaulter is guilty of the charge, the court shall adjudge him to pay a fine according to the nature of the offence, and his situation and circumstances in life. If the defaulter shall not appeal to the provincial court of appeal within the time limited for preferring appeals to that court in Section 12, Regulation IV. 1803, the court is immediately to transmit to the Governor General in Council, a copy of the decree, and of all the proceedings respecting the charge. If the defaulter shall appeal to the provincial court of appeal within the prescribed time, and that court should confirm the decision of the *zillah* court; or if the case shall not be appealable to the Sudder Dewanny Adawlut; or if it shall be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring appeals to that court, in Section 10, Regulation V. 1803, the provincial court of appeal is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court of appeal, and the Sudder Dewanny Adawlut shall confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the *zillah* court, shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process prescribed in Sections 9, and 20, or either of them, had been duly served upon him, and he had obeyed it; and the collector is immediately to obtain from the court a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it or not, as may appear to them proper. If that Board should order an appeal to be preferred, and it shall be lodged within the limited time, and the provincial court of appeal should reverse the decision of the *zillah* court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it should be appealable, and an appeal shall not be preferred within the limited time, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If the judge of the *zillah* court shall decree the charge proved, and the decision shall be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and proceeding of the *zillah* court, and the provincial court of appeal, with a letter stating his objections to the decree of the latter court, to the Board of Revenue, who are to order him to appeal the cause to the Sudder Dewanny Adawlut, (provided the cause shall be appealable,) or not, as they may think proper. If the cause shall be appealed, and the appeal shall be received in the Sudder Dewanny Adawlut, and that court should reverse the decision of the provincial court, and confirm that of the *zillah* court, the Sudder Dewanny Adawlut is immediately to transmit a copy of its decree and proceedings, and of the decrees and proceedings received from the provincial court, to the Governor General in Council. And that

Judge upon the charge appearing to him well founded,

to issue a publication, requiring the defaulter to deliver himself up to the court within four weeks.

In what languages the publication is to be written, and when and where it is to be fixed up.

Decree to be passed by the *zillah* court in the event of the defaulter not surrendering himself within the limited period, or of his delivering himself up within the time, and the charge being proved against him.

Court to transmit the decrees and proceedings to the Governor General in Council, if the defaulter should not appeal within the prescribed time.

If the defaulter should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the defaulter not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut, how to proceed, in case the suit should be appealed to them, and they should confirm the decision of the provincial court.

Collector how to proceed, if the *zillah* court should judge the charge not proved.

Rules for cases in which the provincial court of appeal may reverse such decision of the *zillah* court.

Rules for cases in which the charge may be adjudged proved in the *zillah* court, and the provincial court of appeal shall reverse the decision.

Sudder Dewanny Adawlut how to proceed, in the event of its reversing such decision of the provincial court.

Rule for determining from what decrees of the provincial court of appeal passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

Decrees passed under this section not to be carried into execution without the sanction of the Governor General in Council.

Option reserved to the Governor General in Council, of confirming, or alleviating the fine.

If the fine shall be confirmed, or alleviated, by what court, and how it is to be levied.

Process and appeals instituted under this section, to be conducted by the *vakeel* of Government, on the part of the collector, and to be carried on at the public expense.

no doubt may be entertained from what decrees passed by the provincial court of appeal under this section, an appeal shall lie to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last mentioned court, unless the fine adjudged to be paid by the defaulter shall exceed five thousand sicca rupees. Decrees that may be passed under this section by the court of *adawlut* of any *zillah*, or the provincial court of appeal, or by the Sudder Dewanny Adawlut, adjudging a fine to be paid by a surety, are not to be carried into execution in any case whatever, without an order from the Governor General in Council confirming the decree. It shall be at the option of the Governor General in Council, either to order the decree to be executed, or to alleviate the fine. The court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine that may be imposed upon the defaulter, is to levy the amount of it, by the same process by which it is directed to enforce decrees of the court, and to pay the amount to the collector. The process which the collector may institute in the court of *adawlut* of the *zillah* under this section, as well as the appeals that may be preferred from the *zillah* court to the provincial court of appeal, and from the decision of that court to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, are to be defended or carried on by the *vakeel* of Government, and at the public expense.

Governor General in Council, not precluded from ordering the lands of a defaulting proprietor to be sold, before the conclusion of the year, whether he be in confinement or not.

XXIX. Although in the ordinary course of the collections, the transfer or sale of landed property for balances, must, of course, take place for the most part towards the end of the year, yet nothing in this regulation, is to be construed to preclude the Governor General in Council, from ordering the sale of the lands of a defaulting proprietor of land, who may not have instituted a suit to contest the arrears, whether he may be in confinement or not, to be made at any time previous to the close of the year in which the arrears may become due, should it in any case appear to him inexpedient to postpone the sale until after the expiration of it. And at whatever period the sale of the lands of a proprietor in confinement may be ordered to take place, if the arrear shall not have been adjudged to be due from him by a decree of a court of justice, and provided he shall, previous to the day of sale, deny the justness of the whole, or a part of the arrear under his engagements, and give the security required in Section 16, the sale of his lands is not to be made until the cause shall be finally decided. If the sale of the lands shall have been ordered to be made at Calcutta, the proprietor is either to give the required security to the Board of Revenue, previous to the day of sale, or to the collector of the district, ten days prior to the day fixed for the sale, so that there may be sufficient time for him to notify the acceptance of the security to the Board of Revenue. The collector is not to accept of the security, unless he shall be satisfied that it is good and sufficient. If he shall accept of the security, he is to forward notice of the acceptance of it to the Board of Revenue, in duplicate, by two different posts, to provide against the non-arrival of the notice which may be first despatched. If the sale of the lands shall be ordered to be made by the collector of the district, he is empowered to suspend it, upon such security being delivered to him previous to the sale. But he is immediately to report the circumstances to the Board of Revenue, for the information of the Governor General in Council. If the Governor General in Council shall annul the lease of any farmer in arrear under Section 28, the defaulter is to be at liberty to prosecute the talookdars, zemindars, putteedars, or under-farmers, or ryots, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.*

Sales of land of proprietors in confinement for arrears, which have not been adjudged to be due by a judicial decree, whenever ordered to be made, to be suspended, if the proprietor shall deny the arrear to be due, and give the security required in Section 16.

Where and when such security is to be given, in the event of the sales being ordered to be made at Calcutta, or in the district.

Dispossessed farmers may prosecute for the arrears due to them.

Collector to attach lands of sureties whom he may proceed to confine sufficient to answer the demand against them.

How the collector is to proceed, if the surety possess no lands in the *zillah* in which the defaulter's land shall be situated.

XXX. *First.* When a collector shall proceed to confine the surety of any proprietor or farmer of land, in the cases authorized in this regulation, he is immediately to cause such portion of the defaulter's lands as he may estimate to be sufficient to make good the amount of the demand, in the event of their being sold, to be attached under the rules prescribed in Sections 14, and 15, for the attachment of the lands of defaulting proprietors. If the surety shall not possess any landed property within the *zillah* in which the lands of the defaulter shall be situated, but shall possess lands in any other *zillah* within the ceded provinces, or within either of the provinces of Bengal, Behar, Orissa, or Benares, the col-

* Rescinded by clause first, Section 2, Regulation XI. 1822.

lector is to depute an *ameen* into the *zillah* in which such property may be situated, with a letter, specifying the amount of the demand on him, and the property to be attached. The collector of such *zillah* is immediately to order a *peon* to point out the property to the *ameen*, who is to keep it in attachment, until the Board of Revenue shall have obtained the sanction of the Governor General in Council for the sale of it.

The collector is to depute an *ameen*.

Second. The expense of the establishment of the *ameen*, and all other charges attending his deputation, shall be defrayed by the surety, and disbursed from the collections made from his estate or farm. The *dewan* or head native officer of the surety, or any other person whom he may think proper to appoint, is to keep a counterpart of the accounts of the receipts and disbursements by the *ameen*. The *ameen* is to collect, according to the engagements that may subsist between the surety and his dependant *talookdars*, under-farmers, and *ryots*, and shall not make any alterations whatever in such engagements, or exact more than the amount specified in them. The *ameen* shall be liable to a prosecution in the court of *adawlut* of the *zillah*, for any alterations or infringement of such engagements. In cases in which no engagements may exist between the surety, and his dependant *talookdars* or *ryots*, the *ameen* is to collect from them according to the established rules and usages of the *pergunnah*. The *ameen* shall likewise be subject to a prosecution by the proprietor of the estate, or the farmer, for embezzlement or injuries done to the estate, or farm, during the time that the collection of the rents and revenues of it may be entrusted to him. The *ameen* is to apply the amount of the collections from the lands, after deducting the expenses of his establishment, towards the discharge of the public revenue, which he is to pay to the collector of the *zillah* in which the lands may be situated. If any surplus shall remain after making good the public dues, it is to be appropriated towards the discharge of the demand on account of which the attachment of the lands may have been made.

Expense of establishment of the *ameen* to be sustained by the surety.

Duty of the *ameen*.

Third. If the property of the surety that may be attached, shall be too inconsiderable to admit of its being charged with the expense of an *ameen*, the collector to whom the money due from the surety may be payable, is to apply to the collector of the *zillah*, in which the lands may be situated, or to the nearest *tehsildar* or native officer employed under him in the business of the collections, to take charge of the lands, and the collector to whom the application shall be made, is to comply with it; and the *tehsildar* or native officer to whose charge he may commit the lands, is to perform the duties prescribed to the *ameen* in the preceding clause, and under the same restrictions and penalties. The collector of the *zillah* in which the lands may be situated, is not to be liable to any prosecution on account of the attachment, but the collector in conformity to whose application the attachment may take place, is to be responsible for the consequences, in the same manner as if the lands had been situated in his own jurisdiction. The Board of Revenue are to apply to the Governor General in Council, for his sanction for the sale of the lands belonging to the surety, either during the course of the year in which they may be attached, or after the close of it, as they may deem advisable.

Small estates to be committed to the care of the nearest *tehsildar*, or other native revenue officer.

Board of Revenue to apply for permission to sell the lands of the surety.

XXXI. When lands are ordered to be sold under this regulation, the collector, (unless the lands shall have been previously committed to the charge of a *tehsildar*, or other native officer, in which case, such officer is to perform the duties hereafter specified in this section,) is immediately to issue instructions to the *tehsildar* of the *pergunnah*, to hold the lands in attachment, collect the rents and revenues under the rules and restrictions, prescribed regarding lands under attachment in Section 15, and to prevent waste being committed by the defaulter, and furnish any information that may be required for the adjustment of the *jumma* to be assessed on the lands directed to be sold.

Collector to attach lands ordered to be sold.

XXXII. Any person confined for arrears of revenue, or other demands of Government under this regulation, either pursuant to a judicial decree, or without such decree, shall be at liberty to apply to the judge of the court of *adawlut* of the *zillah*, to require the collector to shew cause why he is continued in confinement. If the person making such application, shall be confined under a decree passed by the Sudder Dewanny Adawlut, or of the *zillah* court, or the provincial court of appeal, and the time prescribed for appealing from the decision shall have elapsed, the judge is not to enter into the merits of the case, but only to inquire whether the prisoner has discharged the amount of the decree, and the sums which may

Judge empowered to require the collector to shew cause why any defaulter is continued in confinement under a judicial decree, and how to proceed in such cases.

may have become due from him subsequent to his confinement. If the prisoner shall not be confined under a judicial decree, but under the process which the collector is empowered by this regulation to observe, before conveying persons to jail for claims of Government, and he shall dispute the justness of the demand, the judge is not to enquire into the merits of the case, unless the party should renew his complaint; after the expiration of the period during which the collector, by the discretionary power vested in him by Section 11, is authorized to confine parties in arrear, which rule is hereby extended to demands on sureties and purchasers of land as far as it can be applied to them. If however, the prisoner shall admit the justness of the demand for which he was confined, as well as any other claims that may be made upon him for sums stated to have become due from him subsequent to his confinement, and shall assert that the whole of such sums have been discharged by him, or otherwise apply to the court under Section 16, the judge is to proceed to inquire into the merits of the case. Upon examination of the prisoner's accounts of his payments, if it shall appear to the judge that the demands for which he may be in confinement, have been liquidated, he is to release him, upon his giving security to make good any sum which the collector may state to be still due from him, in the event of the cause being appealed, and the sum being awarded in favour of Government. If the collector shall not object to the adjustment of accounts made by the court, or if he shall object to them, and the person confined shall omit to give the security above required, and the collector shall not appeal within the time limited for preferring appeals, the judge is to release the prisoner without taking any security. If it shall be found that the whole, or a part of the sum for which such person may be in confinement, remains undischarged, and he shall acquiesce in the adjustment of accounts made by the court, and shall have been confined on account of such demand for a term exceeding one year, the judge is empowered to release him, upon his giving good security to pay the sum remaining due from him, by instalments during the course of one year after his release. The collector and the prisoner are to be allowed to appeal from the decision which may be passed by the court under Section 16, and this section, in the event of either of them being dissatisfied with it, under the rules regarding appeals. The rules prescribed to the collector in the following section, respecting the decisions therein specified, are to be considered applicable to all decisions passed under Section 16, and this section.

Rule applied where a person is confined without a judicial decree.

Collector how to proceed in case of his being cast in a prosecution instituted against him in the *sudder* court, on account of sums demanded or received by him, as arrears of revenue.

XXXIII. Upon a decision being passed in the *adawlut* of any *zillah*, by which the whole or any part of a sum of money that may have been demanded, or actually received by the collector, as an arrear of revenue under this regulation, from any proprietor or farmer of land, shall be adjudged not to be due, the collector is to apply immediately to the court through his own *vakeel*, for a copy of the proceedings and decree The court is to order copies of the proceedings and decree, to be delivered to the collector with all practicable despatch. The collector is to forward the papers without delay to the Board of Revenue with a letter stating his objections to the decree If the Board shall be of opinion that the decision is not well founded, they are to authorize the collector to appeal the cause to the provincial court of appeal. If that court shall confirm the decision of the *zillah* court, the collector is to apply for, and the court is to grant, a copy of their proceedings in appeal, exclusive of the decree and proceedings received from the *zillah* court. The collector is to forward the decree and proceedings of the provincial court, to the Board of Revenue, with a letter, containing his objections to the decree of that court. If the Board shall be dissatisfied with the decision of the provincial court of appeal, and the cause shall be appealable to the Sudder Dewanny Adawlut, they are to direct the collector to prefer an appeal to that court. If the Board of Revenue are satisfied with the decision of the provincial court of appeal, they are to direct the collector not to prefer an appeal to the Sudder Dewanny Adawlut. In all cases in which the Board of Revenue may order the collector to prefer an appeal to the provincial court, the collector is to be indemnified by Government for all costs and damages that may have been awarded against him by the *zillah* court. On the other hand, if the Board of Revenue shall deem the decision of the *zillah* court equitable, and not direct an appeal, the collector is to defray all the costs and damages that may have been awarded against him in that court. The collector is nevertheless to be at liberty to appeal the cause, but at the risk of paying all costs and damages that may be adjudged against him in appeal, in the event of his being ultimately cast. Appeals in which the collector may be engaged, either in the provincial court of appeal, or the Sudder Dewanny Adawlut,

Collector to be indemnified for all expenses incurred in suits in the *zillah* court from decisions, from which the Board of Revenue may direct an appeal.

Adawlut, in consequence of orders from the Board of Revenue, are to be carried on by the *vakeel* of Government, and at the public expense.

XXXIV. If a collector shall be prosecuted under Section 16, and the prosecutor shall be cast, or be dissatisfied with the decision of the judge of the *adawlut* of the *zillah*, and appeal to the provincial court of appeal, the collector is to appoint one of the *vakeels* of the court to plead the cause. If the decree of the *zillah* court shall be confirmed, or the appellant should be dissatisfied with the decision of the provincial court of appeal, and appeal to the Sudder Dewanny Adawlut, and an appeal shall be admitted, the collector is to appoint one of the pleaders in that court to defend the suit. If the provincial court of appeal shall not confirm the decision of the *zillah* court, the collector is to apply to the provincial court for a copy of the proceedings and decree of the *zillah* court, and of their proceedings, and decree in the appeal. The courts are to furnish the collector with these papers with all practicable despatch, and the collector is to forward them to the Board of Revenue, with a letter, stating his objections to the decree in appeal. If the Board shall be of opinion, that the decree of the provincial court is not well founded, they are to authorize the collector to appeal to the Sudder Dewanny Adawlut. If the Board shall see no ground for appealing from the decision of the provincial court of appeal, the collector is nevertheless to be at liberty to prefer an appeal to the Sudder Dewanny Adawlut, but at the risk of paying all the costs and expenses which may be awarded against him by that court, in the event of his being cast. All appeals that may be preferred by the collector to the provincial court of appeal, or to the Sudder Dewanny Adawlut, or in which he may be respondent, under this section, agreeably to the orders of the Board of Revenue, are to be carried on at the public expense and conducted by the *vakeel* of Government, who is to be furnished with the necessary instructions for that purpose by the collector.

If persons prosecuting under Section 16, shall be cast, and appeal, the collector is to nominate one of the *vakeels* of the provincial court of appeal to defend the appeal.

If the decision of the *zillah* court should be confirmed, and the cause be appealed to the Sudder Dewanny Adawlut, and an appeal be admitted, the collector is to appoint one of the *vakeels* of that court to defend the appeal.

Collector how to proceed, if the provincial court should not confirm the decision of the *zillah* court.

Board of Revenue to order the collector to appeal, if they think the decision of the provincial court not well founded.

If the Board of Revenue shall not direct an appeal, the collector is to be at liberty to appeal, but at his own risk.

All appeals preferred by the collector under this section, agreeably to the orders of the Board of Revenue, to be carried on by the *vakeel* of Government, and at the public expense.

XXXV. In every case in which a collector may be prosecuted in the *adawlut* of any *zillah*, under this regulation, for sums demanded or received by him on behalf of Government, from any proprietor or farmer of land, or from any surety, or from any purchaser of land, or for any sums demanded, or received, or taken by him, directly or indirectly, for his own use, from any of the above-mentioned descriptions of persons, over and above what he may be entitled to demand on behalf of the public, or for any acts done in his official capacity, that may be repugnant to this regulation, or which may not be warranted by it, and in appeals that he may have preferred without the orders of the Board of Revenue, he is to appoint any of the authorized *vakeels* of the court before which the suit may be brought, to plead the cause.

Collector to appoint a *vakeel* of the *zillah* court, to defend suits, preferred against him under this regulation, and to nominate *vakeels* of the court of appeal to carry on appeals, which he may have preferred without the orders of the Board of Revenue.

XXXVI. In prosecutions that may be instituted in the court of *adawlut* of any *zillah*, against a collector for sums of money demanded, directly or indirectly received, or taken by him, for his own use, from any proprietor or farmer of land, or any surety, or any purchaser of land, or for any acts done in his official capacity, that may be repugnant to this regulation, or which may not be warranted by it, and that shall not involve any claims to sums received or demanded by him on behalf of Government, in conformity to this regulation, (which claims are to be made the subject of distinct suits, and are to be tried in the manner and under the rules prescribed in this regulation,) the collector is not to forward the decree and proceedings to the Board of Revenue. The suit is to be considered entirely as a dispute of a private nature, between the collector and the prosecutor, and the collector is to defend it at his own risk and expense, in the same manner as individuals amenable to the courts, and not employed by Government, are required to defend suits instituted against them.

What suits instituted against a collector under this section, are to be considered of a personal and private nature, and how he is to defend them.

XXXVII. The collector is not to derive any pecuniary advantage whatever from suits that he may institute, or which may be preferred against him, in any of the courts of justice, in his official capacity, with the exception of suits in which he may be engaged under the preceding section, the sums awarded to him in which, he is to apply to his own use. On the other hand, it is not intended, that the collector should sustain any loss in levying the dues of Government, in cases in which his conduct may be adjudged by a final judicial decree to be conformable to this regulation. The collector is accordingly to bring to the credit of Government in his monthly accounts, all sums whatever, (with the exception above specified,) that may be adjudged to him as costs or damages, by any of the courts of civil justice,

Collector not to derive any pecuniary advantage from suits in which he may be engaged, except in the cases specified in Section 36;

nor to suffer any loss, if his conduct is determined to be conformable to this regulation.

Collector to bring to account all costs and damages

that may be adjudged to him, with the exception above specified.

Collector to issue from the public treasury, and note in his accounts, the expenses of suits that are at all events to be defrayed by Government, as well as the expenses of suits that may be ultimately defrayable by Government, but not to insert such expenses in his accounts, without the sanction of the Board of Revenue.

justice, and he is to insert at the foot of his monthly accounts, or in a separate account, or in his monthly accounts, under a distinct head, according as the Board of Revenue may deem advisable, all sums which he may disburse in conformity to this regulation, on account of process or suits directed to be carried on by the *vakeel* of Government, the costs and damages in which are expressly directed to be defrayed by the public; or in suits, the costs and damages in which may be ultimately defrayable by Government, but for which the collector is directed to be held responsible in the first instance. But he is in no case to charge these disbursements in his accounts, without previously obtaining the special sanction of the Board of Revenue for that purpose. Until such sanction is procured, the collector is to be held answerable for the disbursements.

Board of Revenue to report to the Governor General in Council, any cases in which a collector may have been compelled to pay costs or damages, and for which they may be of opinion he ought not to be made responsible.

XXXVIII. If a collector shall have been compelled to pay costs or damages in any suit under this regulation, and upon his stating the case to the Board of Revenue, it shall appear to them upon a consideration of the circumstances of it, that he ought not to be made responsible for the amount, the Board are to transmit the case to the Governor General in Council, who will determine whether the collector shall be made responsible for such costs or damages, or not.

Cases in which security is to be demanded from the collector for costs or damages, or for the performance of decrees of the court.

XXXIX. Security is not to be demanded from the collector for his personal appearance in any suit in which he may be engaged under this regulation. Nor shall any security be required from him for the payment of the costs, or for the performance of the decrees or orders of the court, in suits which are directed by this regulation to be carried on by the *vakeel* of Government, and at the public expense. In suits for sums demanded or received by the collector on behalf of Government, for the costs and damages in which he is declared eventually responsible, the courts are to require the same security from the collector for the payment of the costs and damages, as would be taken in similar cases from individual suitors; but they are not to require any security from him for the performance of their decrees respecting the sums which may constitute the subject of the suits, as Government will be answerable for the due performance of them. In the suits described in Section 36, which may be instituted against the collector, he is to give the same security for the payment of the costs, and the performance of the decrees and orders of the courts, as would be required from individual suitors in similar cases. If a collector shall refuse or omit to pay within the limited period, any sum of money that may be ordered to be levied from him, either on account of the suits described in Section 36, or as costs or damages in any other suits for the expenses incurred in which he is declared eventually responsible, the court is to levy the amount from his surety, by the customary process. If the court shall not be able to obtain payment from his surety, the judge is to report the circumstances to the Governor General in Council, who will order the amount to be paid from the public treasury, and deduct it from the allowances which may be receivable by the collector from Government. In all other cases, if a collector shall omit or refuse to obey any order or decree of a court of judicature, the court from which the process shall have issued, is to fine him according to the nature of the offence. In the event of the collector refusing or omitting to pay the fine, the court is to report the circumstances to the Governor General in Council, who, provided he shall approve of the fine, will order the amount to be stopped from the allowances which may be receivable by such collector from Government.

Court how to proceed, in the event of a collector omitting or refusing to obey any order or decree.

Board of Revenue to issue instructions to the collector regarding the mode of inserting or not inserting in his accounts, his receipts and disbursements in the suits herein mentioned, and to require such vouchers for the sums as they may think proper.

XL. The Board of Revenue are to issue such instructions as they may think advisable to a collector, regarding the mode of inserting in his monthly accounts, the sums which may be paid to him as costs and damages, in consequence of the orders or decrees of any of the courts of civil judicature, or noting at the foot of his accounts, or charging under a separate head in his monthly accounts, the sums which he may disburse as costs or damages, which are expressly directed to be defrayed by Government, whatever may be the final decision in the cause, or that may be ultimately defrayable by Government, although, in the first instance, the collector is to be held responsible for them, and to require such vouchers as they may deem necessary for such receipts and disbursements, as well as for the sums which the courts may adjudge to be repaid from the public treasury, or not to be due to the public.

Process issued against collectors under this regulation, how to be served.

XLI. When any process or order shall be issued by any of the courts of civil judicature to a collector, in suits instituted under this regulation, the register of the court immediately serving

ing the process or order, is to transmit it under a cover, sealed in the form of a letter, and superscribed with his name and official appellation, and addressed to the collector. The collector is to acknowledge the receipt of the process or order on the day on which he may receive it, by a letter addressed to the register of the court by which it may have been served.

Collectors allowed to forward instructions to their *vakeels* in the courts of appeal, by the *dawk*, free of postage.

XLII. To facilitate the communication between the collector, and the *vakeels* in the provincial court of appeal, and the Sudder Dewanny Adawlut, who may be entrusted with the conduct of any appeals, (including appeals from decisions in the suits described in Section 36,) in which the collector may be engaged under this regulation, either whilst he may continue in the office of collector of the district in which the suits may have arisen, or after his removal from the office, the collector is permitted to forward free of postage, any instructions regarding such appeals, which he may have to transmit to the *vakeels* of those courts. The instructions are to be enclosed under cover, sealed, and directed to the *vakeel*. The instructions so sealed and directed, are to be transmitted under a sealed cover, addressed to the register of the court in which the cause may be depending, and superscribed with the name, and the official appellation of the collector, or that which he bore when the cause of action arose. The register of the court, immediately upon receiving the instructions, is to deliver them sealed to the *vakeel* to whom they may be directed. Any person who may be removed from the office of collector, and who may have a suit or suits depending in the *adawlut* of any *zillah*, after his removal from the office, is likewise empowered to forward instructions to his *vakeel*, respecting such suit or suits, through the register of the court. In like manner, the *vakeels* in any of the courts to whom the pleading of suits may be committed under this regulation, by persons holding the office of the collector, or after they have been removed from the office, are authorized to forward any papers which they may have to convey to their employers by the public *dawk*, free of postage. The papers are to be enclosed in a cover, sealed with the seal of the *vakeel*, and the register of the court is to transmit the papers so sealed, in a cover sealed and addressed to the person to whom they are to be forwarded, and superscribe the cover with his official signature.

Instructions to be sealed, and enclosed under a sealed cover, addressed to the register of the court.

Persons removed from the office of collector, and having suits depending in the *zillah* court, empowered to forward instructions to their *vakeels* by the public *dawk*, and through the register of the court.

Vakeels in any of the courts employed by collectors under this regulation, empowered to forward papers to their constituents free of postage, through the register of the court in which the cause may be depending.

XLIII. Arrears of *tuccavy*, or any money advanced by Government to proprietors or farmers of land, for making or repairing embankments, reservoirs, or water-courses, or other improvements to their estates or farms, are to be recovered by the same process, as is prescribed for exacting payment of arrears of revenue, and under the same rules and restrictions, as far as they may be applicable.

Sums advanced as *tuccavy*, or *poolbundy*, &c. to be recovered under this regulation, in the same manner as arrears of revenue.

XLIV. No collector is to be liable to prosecution for any official acts of his predecessor. But persons who may be removed from the office of collector of the revenue, are to carry on, in the same manner as if they had continued in the office, all suits of the nature of those described in Section 36, in which they may be engaged, and all suits preferred against them in any *zillah* court, for sums that they may have demanded or received on behalf of Government, and for the costs and damages in which they are declared eventually answerable; as well as all suits, being appeals from decisions in the suits of the last-mentioned description, excepting such of those appeals as they may have preferred, or in which they may have become a party, in consequence of orders from the Board of Revenue.

Collector not to be liable to prosecution for the acts of his predecessors. What shall persons removed from the office of collector are bound to prosecute or defend after their removal.

XLV. If the collector of any *zillah* shall die, or be removed from his office, his successor is to carry on all unfinished process of suits in the courts of *adawlut*, directed by this regulation to be conducted by the *vakeel* of Government, and at the public expense; and all appeals from the decrees of the *zillah* courts, or the provincial court of appeal, in such cases; as also all appeals from the decrees of the *zillah* courts, or the provincial court of appeal, in which the former collector may have been engaged, in consequence of orders from the Board of Revenue, and which are directed to be pleaded by the *vakeel* of Government, and at the public expense.

Collector to carry on the unfinished suits and process herein specified, which may have been instituted under his predecessors.

XLVI. In cases in which the Board of Revenue may judge it expedient, or in which they may receive orders for the purpose from the Governor General in Council, they are to take upon themselves the superintendence of the prosecution or defence of any appeal, in the Sudder Dewanny Adawlut, which a collector may prefer, or be engaged in, pursuant to their orders, instead of leaving the superintendence of the appeal to him.

Cases in which the Board of Revenue are to take upon themselves the prosecution or defence of appeals, in the Sudder Dewanny Adawlut.

If the proceeds of the sale of the *malgoozree* lands of any defaulter are not equal to the demand against him, his other property to be sold to make good the deficiency.

XLVII. If the lands subject to the payment of revenue to Government, belonging to any defaulting proprietor or farmer of land, or any surety, or purchaser of land, which may be sold under this regulation, shall not produce a sum sufficient for the liquidation of the public demand, any other real or personal property which the defaulter may possess, is to be attached and sold to make good the deficiency, under the same rules as his lands subject to the payment of revenue to Government are directed to be sold, in Regulation XXVI. 1803, as far as those rules may be applicable to such property. And if any property shall be attached, and ordered to be put up to sale, and the sale shall be countermanded in consequence of the proprietor discharging the claim upon him, or otherwise, he is nevertheless to be held responsible for all expences that may be incurred in consequence of the attachment of the property, in the same manner as if the sale of it had taken place, and in the event of his omitting to discharge the amount, it is to be levied by the same process as the demand for which the property originally ordered to be sold may have been directed to be levied.

Expenses attending the attachment of property ordered to be sold, but the sale of which may be countermanded, to be defrayed by the proprietor.

Zillah courts how to proceed in cases in which persons may dispute the validity of the engagements under which demands may be made upon them by the collector, or have any objections to make to the engagements, either wholly or partially, under this regulation, or deem themselves aggrieved by acts done by the collector, in conformity to special orders from the Governor General in Council, or the Board of Revenue.

XLVIII. If a proprietor, or farmer, or a surety, or a purchaser of land, shall deem himself aggrieved under this regulation, by any act which may be done by the collector, in conformity to special orders from the Governor General in Council, or the Board of Revenue, or if a collector shall demand a sum of money under this regulation, on behalf of Government, from any of the abovementioned descriptions of persons, and the stated defaulter shall admit, the demand to be conformable to the engagements or stipulations under which the collector may make the demand, but deny their validity, or have any objections to make to them, either wholly or in part, under any regulation passed by the Governor General in Council, and printed and published in the manner prescribed in Regulation I. 1803, the collector is not to be liable to any prosecution on account of such act, or the demands that he may make conformably to such engagements, or stipulations, which are to be held valid, until they are set aside, or altered by a final judicial decision; and the proprietor or farmer of land, or surety, or purchaser of land, is to discharge the demands that may be made upon him by the collector under such engagements or stipulations, until the decision shall be passed. In the cases above specified, Government is to be considered as a party in the cause with its subjects, and the proprietor or farmer of land, or the surety, or purchaser, is to present a petition to the judge of the *adawlut* of the *zillah* in which the cause may be cognizable, stating his objections to the act, or to the engagements, or stipulations, and praying that the Governor General in Council will order the court of *adawlut* of the *zillah*, to try the points or matter contested under the regulations. The judge to whom the petition may be presented, is to forward it immediately to the Governor General in Council, who provided he shall not think it proper to afford the redress that may be solicited by the petitioner, and the courts of justice shall be competent to try the cause, will direct the court in which it may be cognizable, to proceed to the trial of it. If the Governor General in Council shall order the cause to be tried, the judge of the court is to send a written notification of the order to the complainant, and the cause is to be considered as filed in the court from the date of the notification. The court is then to proceed to try the suit, under the same rules and regulations as are prescribed for the trial of suits between individuals. The collector is to carry on, under the orders of the Board of Revenue, all suits that may be instituted against Government in conformity to this section, and to issue the necessary instructions to the *vakeel* of Government, in the *zillah* court, and in the provincial court of appeal, or the Sudder Dewanny Adawlut, should the cause be appealed to the former, or both of those courts. In the event of Government being cast in the *zillah* court, or in the provincial court of appeal, the collector is to send copies of the decree and proceedings of the court, (which are to be delivered by the court to the collector as soon as may be practicable, upon his applying for them,) with a letter stating his objections to the decision, to the Board of Revenue, who are to submit them, with their opinion on the case, to the Governor General in Council, who will order an appeal to be preferred from the decision or not, as he may deem advisable. All costs and damages that may be awarded against Government in suits instituted under this section, are to be defrayed from the public treasury.

Rule in this regulation regarding the collectors, to

XLIX. The rules respecting the collectors contained in this regulation, are to be considered equally applicable to the assistants to the collectors, or any other persons who may be

appointed by the Governor General in Council to officiate as collectors, during the temporary absence of the collectors, or whilst the office may be vacant.

be held applicable to the acting collectors.

L. No part of this regulation is to be construed to authorize the confinement of the person of any joint proprietor of an estate, committed to the charge of a manager, whilst such manager remains responsible; nor to empower the collector to take a female proprietor of land into custody, or to order any such proprietor to attend him in person, under any pretext whatever.

Joint proprietors of estates in charge of a manager, not to be confined.

Female proprietors not liable to arrest nor to attend the collector.

LI. The collectors are generally empowered to require the personal attendance of any landholder, or other native inhabitant, within their respective jurisdictions, when the attendance of such person may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of their public duty, under the regulations or instructions of the Governor General in Council, or Board of Revenue. But a collector shall not cause the personal attendance of any landholder or other person, who may appoint an agent duly authorised to attend for him, if the attendance of the agent so appointed shall be adequate to the purposes required. Where a collector may have occasion to exercise the powers, as above authorized, he shall issue a regular summons under his official seal and signature, specifying the name, designation, and residence of the party summoned, and the purpose or purposes for which his attendance is required. Any infringement of this rule shall render the collector liable to an action for damages in the civil court.

Collector empowered to require the attendance of any landholder, or native whose attendance may be requisite.

But not to require the attendance of a principal, where that of an authorized agent may suffice.

Regular summons to be issued to persons whose attendance is required.

Collector subject to prosecution for damages for any infringement of this rule.

LII. No attachment of an estate or farm shall be made without the sanction of the Board of Revenue; except in the cases where the collector may deem the same expedient to induce the payment of the arrear by the defaulter; or to obtain accurate information of the assets of the estate for the purpose of disposing of a portion of it by public sale at the close of the year; or to prevent his misappropriation of the remaining rents of the year. Where an attachment may be deemed advisable for the purposes above stated, the entire estate shall be attached. Estates or farms shall in no case be liable to attachment, during the three first months of the Bengal, Fusuily, or Willaity year (according to the era current in the several districts), without the sanction of the Board of Revenue to that effect being first had and obtained by the collector. But this rule shall not be considered as applicable to attachments which have been made in the preceding year, and continued after the expiration of it, with a view to the lands being brought to sale for the recovery of the arrear due from them.

Collectors shall not attach the estate or farm of any proprietor without the sanction of the Board of Revenue, unless in particular cases.

The entire estate shall be attached.

No attachment shall be made during the three first months, of the year without the orders of the Board of Revenue.

Attachments made in the preceding year excepted.

LIII. *First.* The whole of the lands in the ceded provinces shall be let on a lease for three years, at a fixed, equal, annual rent, the amount of which must be determined by such accounts as the collectors may be at present in possession of, or may be able hereafter to obtain; but no settlement is to be considered final, until it has received the previous sanction of the Board of Revenue. In cases where, from the state of the country, it may not be practicable to conclude a settlement at a fixed, equal, annual *jumma*, or rent, without any obvious loss to Government, the collectors shall make the settlement at such an annual increase, during the first lease of three years, as may appear to them to be just and equitable.

The lands to be let, on a lease for three years.

Second. The collectors shall insert the following stipulations in every engagement:—*First*, At the expiration of the first lease for three years, another settlement shall be concluded for the further period of three years, at a fixed, equal, annual *jumma*, on the following terms: the difference shall be struck between the annual amount of the first lease, and the actual net produce of the lands at the time when it expired, and two-thirds of such difference shall be added to the annual rent of the first lease, and will become that for the second three years. *Secondly*, At the expiration of the second three years lease, new engagements shall be entered into for the further period of four years, at a fixed, equal, annual *jumma*, the amount of which shall be determined by adding three-fourths of the net increase of revenue, during any year of the second three years lease, to the *jumma* thereof. *Thirdly*, At the end of the ten years, a permanent settlement shall be concluded for such lands as may be in a state of cultivation sufficiently advanced to warrant the measure, on such terms as Government may deem fair and equitable; due regard being had to the actual state of the country, and its means and capability of further improvement. *Fourthly*, Persons fulfilling their engagements for the first three years, shall have the option of renewing the same for the second period, on the prescribed terms, and so on, for the third period.

At the expiration of the first, another settlement to be formed for three years: Conditions.

At the expiration of the second, a further engagement to be formed for four years. Conditions.

Claims not preferred within six months from issuing the proclamation of the 14th of July 1802, shall not be entitled to possession before the expiration of the first lease; and if not preferred within three years, not until the completion of the ten years.

But this rule not to restrict the right of preferring claims.

Third. Persons holding claims to lands, for which engagements have been entered into by the present possessors, and who did not prefer their claim to regain possession of the same, within six months from the date (as recorded in the several *zillahs*) of issuing the proclamation by the Board of Commissioners of the 14th of July 1802, such claimants shall not be entitled to be put in actual possession before the expiration of the first lease of three years; and claims not preferred within the aforesaid period of three years, shall not entitle the claimant to regain possession until the expiration of the ten years. But this rule shall not be construed to restrict persons from preferring their claims at any time within the ten years.

Settlements to be made in all practicable cases with the *zemindars*.

Fourth. In all cases, the settlement shall be made with the *zemindars*, provided they offer a fair and equitable *jumma*; where a collector may judge it inexpedient to form a settlement with a *zemindar*, he shall hold proceedings on the subject, detailing at large, his reasons for rejecting the claim, with every information he may have obtained relative to such *zemindar*; and at the same time receiving the *zemindar's* answer to the objections urged to his claim. The collectors shall then transmit the whole of his proceedings to the Board of Revenue, and await their determination on the same.

Where a *zemindar's* proposals are rejected, case to be reported to the Board of Revenue.

A *zemindar* declining to form a settlement, is to receive the same *nankar* as he would have received under the Nawaub's government.

Fifth. Where a *zemindar* may decline entering into engagements for his estate, he shall be allowed for the present, the same *nankar* which he may have been accustomed to receive under the government of the Nawaub Vizier; and, in like manner, where the Board of Revenue may reject the claim of a *zemindar* to enter into agreements with Government, and such *zemindar* may have been in the receipt of *nankar* under the late Government, such rate of *nankar* shall be continued to him, for the present; provided, that in either case, the rate of such allowance shall not exceed the sum of ten per cent. on the *jumma* of the estate.

The same allowance to be granted, on his claim to form a settlement being rejected.

The rate of *nankar* not to exceed ten per cent.

Sixth. Where a *zemindaree* may have been mortgaged, or transferred as security for a debt, and actual possession given to the mortgagee or surety, the settlement shall be made with such mortgagee or surety in possession; leaving the *zemindar* at liberty to adjust his accounts with the actual possessor, or to sue for redress in a court of justice.

Settlement for *zemindarees* mortgaged to be made with the mortgagee.

Seventh. In large *zemindarees*, containing several dependant *talooks* or estates, of which the actual proprietors may be now, and have been for a length of time, in undisturbed possession, the principal *zemindars* being no more than the immediate channel of receiving the dues of Government, the settlement shall be made with such dependant *talookdars*, separate and distinct from the engagement of the principal *zemindars*; provided, however, that the *talookdars* shall be desirous of such separation, or the *zemindars* shall require it.

Settlement to be made with *talookdars*, where they have been long in possession, and the *zemindar* has been only the channel of receiving the dues of Government.

Eighth. In the event of the *zemindar* considering himself aggrieved by a separation made in conformity to the above clause, or of a *talookdar* being dissatisfied at not being separated from a *zemindaree*, agreeably to what he may have considered as his right, in either case, the party considering himself aggrieved shall be at liberty to sue for redress in a court of justice. The collectors shall not suffer such disputed claim to interfere with, or delay the immediate conclusion of the settlement, which, in all doubtful cases, shall be made with the person in possession.

Claims to the right of separation between a *zemindar* and *talookdar*, to be determined by a court of justice.

Ninth. Where *zemindars*, or other actual proprietors, shall decline entering into engagements for their respective estates, or where there are no proprietors, a village settlement shall be made for three years; giving the preference to the *mokuddums*, *purdhauns*, or any respectable *ryot* of the village; but no person, not an actual proprietor, shall (so far as may be practicable,) be allowed to engage for more than one *assillee* village, and its *dakhillee* or dependant villages.

Where neither a *zemindar* or proprietor may engage, a village settlement to be made for three years.

Tenth. Persons of every description, whether proprietors or not, shall give security equal to one-fourth of the stipulated amount of their annual engagements, in default of which their proposal shall be rejected.

Security to be given equal to one-fourth of the annual engagement.

Eleventh. All persons with whom a settlement may be made, shall bind themselves by a written obligation, under such reasonable penalty as the collectors may think proper to determine, to grant *pottahs* or leases to the *ryots* and under-renters of every description; specifying the amount they are respectively to pay; and counter engagements shall be executed by the *ryots* and under-renters of a similar tenor and purport.

Persons entering into engagements shall become bound to grant *pottahs* to the *ryots*.

Who shall execute counter engagements.

Twelfth. In granting *pottahs* to the *ryots* and other under-renters, and in receiving *cabooleats* from them, all authorized and established *abwaubs* shall be consolidated with the land rent, and formed into one *jumma*, which shall be expressed in a gross sum in the *pottahs* and *cabooleats*; and the imposing or levying new *abwaubs* shall be strictly prevented.

All *abwaubs* to be consolidated with the land rents.

Thirteenth. All engagements entered into with Government, shall be exclusive of *sayer* duties, and of all other collections not connected with the land revenue, hitherto levied under the denomination of *zemindaree* and *thanadaree* duties. The *cabooleats* executed by *zemindars*, and other actual proprietors of land, shall contain a clause restricting them from collecting *sayer* duties, or any other duties whatever, in their respective tenures. And the collectors are required to explain fully the nature and extent of this restriction, in order that persons desirous of entering into engagements may regulate their proposals accordingly. *Nankar*, and pensions of every description, shall be paid by Government from its own treasuries; and no deductions whatever shall be admitted on these, or on any other accounts.

Engagements with Government to be exclusive of *sayer*.

Cabooleats of *zemindars* to restrict the collection of *sayer*.

Nankar and pensions to be paid from the treasury of Government.

Fourteenth. Where neither the proprietors nor farmers may tender suitable conditions of agreement, a *khas* or *bowlee* settlement shall be made with the *ryots*; stipulating the shares they are to get from the different kinds of land as follows:—In *politch* lands, or such as are in full cultivation, Government shall receive five *passerees* and the *ryots* three *passerees*. In *chunchur* lands, or such as have not been cultivated for two or three years, Government shall receive two, and the *ryot* six *passerees*. In *bunjer*, or waste lands, Government shall receive one, and the *ryot* seven *passerees*. *Chunchur* lands after one, and *bunjer* lands after two years, shall be considered equal to *politch*; and further, the *bunjer* lands after one year shall be taxed equal to *chunchur*. In the *khas* settlement, the *bhaint* or *nuzzerana* shall be abolished; the *putwarees'* wages shall be borne by the *ryots*; but the *mussaut*, or measuring and valuing the crops, shall be defrayed by Government, in consideration of the additional *passeree* received out of the *politch* crop. In all cases where crops are valued, it shall be done according to the price current of the day. In the *khas* settlement, the *ryots* shall engage that the cultivation of the lands shall not fall off, and that they shall not undertake the cultivation of new lands, until they have accomplished that of the old.

A *khas* or *bowlee* settlement to be made where no other can be formed.

In *politch* lands, Government to receive five, and the *ryot* three *passerees*.

In *chunchur*, Government to receive two, and the *ryot* six.

In *bunjer*, Government to receive one, and the *ryot* seven.

Chunchur after one, and *bunjer* after two years, to be equal to *politch* lands.

Bunjer after one, to be equal to *chunchur*.

Bhaint to be abolished.

Putwarees to be found by the *ryot*, *mussaut* by Government.

Ryots to engage to keep up the cultivation.

Fifteenth. The collectors shall in all cases whatever, take under their own immediate management, the settlement and collections of all the large *zemindarees*; and further, that of all such other lands as they can superintend, without detriment to their general avocations.

Collectors to take under their own charge the large *zemindarees* and such other lands as they can superintend.

Sixteenth. The proprietors of such estates as shall pay their revenues immediately into the treasury of a collector, shall become responsible for entertaining an efficient police in their respective estates; subject to such general rules and regulations as may be hereafter enacted; with an exception as to cities, large towns, and principal *gunjes*, the expences of the police of which will be defrayed by Government.

Proprietors paying their revenue immediately to Government to maintain a police.

Seventeenth. In cases, where lands to a considerable amount, shall be let in farm, to one individual, and Government, from the report of the Board of Revenue, shall be of opinion, that the other avocations of the collector will admit of the measure, the collections from such farm shall be paid, immediately, into the treasury of the collector, instead of being received through the medium of a *tehsildar*.

Collections from large farms to be paid, in certain cases, into the treasury of the collector, in place of being received through the medium of a *tehsildar*.

A. D. 1803. REGULATION XXVIII.

A REGULATION *for empowering Landholders and Farmers of Land, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, to distrain and sell the personal Property of their Under-farmers and Ryots, for Arrears of Rent or Revenue; and for preventing such Landholders and Farmers of Land from confining, or inflicting corporal Punishment on their Under-farmers and Ryots, or their Sureties.*—PASSED *by the Governor General in Council, on the* 24*th of March,* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

IT being essential to the prosperity of the country, and the punctual collection of the public revenue, that landholders and farmers of land, should have the means of compelling payment from defaulters, without being obliged to have recourse to the courts of justice, and incurring the delay and expense necessarily attending a law-process for the recovery of every arrear; and that under-farmers, *ryots*, and dependant *zemindars*, should be protected from oppression, and unjust demands; the Governor General in council, with a view to the attainment of these important objects, has passed the following rules.

What persons may distrain.

II. *First. Zemindars*, and other actual proprietors of land, *talookdars*, and farmers of land, who hold their farms immediately of Government, are empowered to distrain, without sending notice to any courts of justice, or any public officer, the crops and products of the earth of every description, the grain, cattle, and all other personal property, whether found in the house, or on the premises of the defaulter, or in the house, or on the premises of any other person, within or without the limits of the estate or farm of the distrainer, belonging to their under-renters, and *ryots*, and the dependant *zemindars*, and *putteedars* paying revenue through them, for arrears of rent or revenue, and to cause the said property to be sold for the discharge of such arrears. The same powers are likewise vested in dependant *zemindars*, and *putteedars*, distinct or common, for the recovery of arrears of rent from their under-farmers, and *ryots*, and also in under-farmers who farm lands from *talookdars*, *zemindars*, *putteedars*, or other actual proprietors of land, or farmers of land, who hold their farms immediately of Government, to enable such under-farmers to enforce payment of arrears of rent or revenue from their dependant *zemindars*, *putteedars*, or under-farmers, or *ryots*.

Whose and what property is liable to distraint.

Landholders and farmers empowered to distrain arrears of rent, authorized to delegate this power to their agents.

Agents to whom such powers may be delegated, authorised to levy distress for arrears of rent due to their constituents.

Second. The *talookdars*, *zemindars*, and other landholders, and farmers of land, empowered by the above clause to distrain the crops, cattle, and other personal property of their under-tenants for arrears of rent, are authorized to delegate to their *naibs*, *gomashtahs*, and other agents, employed in the collection of their rents, the power of distraining in their behalf in the mode prescribed by the regulations; under the responsibility declared in Section 29, of this regulation; and the *naibs*, *gomashtahs*, and other agents, to whom such power may be delegated by their principals, are authorized to proceed for the recovery of arrears of rent due to their constituents in the same manner as the latter are authorized to proceed;

Subject to their own responsibility, in addition to that of their principals.

Neither landholders, farmers, or their agents liable to prescribed penalties except in cases of wilful deviation from, or gross neglect of, the regular process for distraining.

Where no wilful deviation or gross neglect may appear, satisfaction for actual damage only to be adjudged.

And not this, if distrainer can shew that he tendered sufficient indemnification.

proceed; subject to their own responsibility, in addition to that of their principals, for any wilful deviation from the regulations; but it is hereby declared, that neither the landholders and farmers themselves, nor their agents, are to be made liable to the penalties prescribed for a deviation from any part of the regulations relative to the distraining for land-rents, unless such deviation shall clearly appear to have been wilful and intentional, or to have proceeded from gross neglect or inattention to the rules prescribed for their guidance. Where no such wilful deviation or gross neglect shall appear, satisfaction to the party aggrieved for the actual damage sustained by him from the prescribed process not having been strictly adhered to, shall alone be adjudged against the distrainer; nor shall any judgment be given for such damages, if the distrainer can shew that he tendered sufficient indemnification to the party injured, as soon as the irregularity in his proceedings was discovered, or at any time before the action for damages was brought against him, and that such tender was refused.

What property is not liable to distraint and sale.

III. Persons vested with the power of distraint, shall not distrain or sell the lands, houses, or other real property of their under-farmers, and *ryots*, or of the *zemindars*, or *putteedars*, paying revenue through them; nor goods or advances belonging to the Company; nor the loom, thread, unwrought silk, or materials of manufacture, of any weaver or manufacturer; nor the tools of any tradesmen or labourer standing towards them in the relation of under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*. All such distraints and sales are declared illegal and void. The defaulter shall stand acquitted of the arrear of which the distress may be levied, and the property shall be restored to him, or the distrainer shall be compelled to make good to him the value of it, if it shall be personal property, and shall have been destroyed, damaged, or injured, or shall not be forthcoming; and the distrainer shall be further obliged to pay to him damages adequate to the loss which he may prove to have sustained in consequence of such attachment or sale, with all costs of suit.

Distraint and sale of it illegal and void. Penalty.

What property is not to be distrained, if other sufficient property can be attached.

Penalty.

IV. The ploughs and implements of husbandry, the cattle actually trained to the plough, and the seed-grain of under-farmers, *ryots*, and dependant *zemindars*, or *putteedars*, shall not be distrained for arrears, provided the defaulter shall possess, and the distrainer shall have it in his power to attach, other cattle, grain, or property, sufficient for the discharge of the arrear. Distrainers are enjoined to attend strictly to this rule, and every deviation from it shall be punished by an award to the party aggrieved of damages adequate to the injury he may have sustained, with all costs of suits.

Under-tenants to be considered defaulters for any arrears of rent withheld beyond the day on which they became payable.

For such arrears not paid on demand, defaulters liable to distress.

Tenant to give notice of distress to his surety.

V. Under-tenants, of every description, are to be considered defaulters for any arrears of rent withheld beyond the day on which the same may have become payable, according to their *kisthundies*, or other engagements; or where there may be no written specification of the exact term of payment, beyond the period when the rent demandable from them may be payable, according to established local usage. For all such arrears, which may not be paid on demand, defaulters are declared liable to immediate distress, whether the amount shall have been demanded from their sureties, or otherwise. In instances wherein the distrainer may proceed to levy distress from an under-tenant, who has given security, without having previously demanded the arrear from the surety, it will be incumbent on the tenant to give notice of the distress to his own surety, so as to enable him to discharge the arrear before the sale of the property attached; or the distrainer, if he thinks proper, may give notice to the surety, and require him to make payment of the arrear. The distrainer may also, at his option, distrain in the prescribed mode, either the property of the defaulter, or his surety, or the property of both, so that the whole distress be not excessive in proportion to the arrear; but no distress shall be levied on the property of the surety, until the arrear shall have been ineffectually demanded from the defaulter, unless the latter shall have absconded, or be otherwise not forth-coming; in which case, and in the event of the surety's not discharging the amount due on demand, distress may be levied from his property for the recovery of it, in like manner as if the defaulter had been present, and served with the demand in the first instance.

Or distrainer may give notice to surety, and require payment from him.

Distrainer may also at his option distrain property of a surety.

Or the property of both the defaulter and his surety, so that the distress be not excessive.

Provided the arrear be first demanded from the defaulter, if forthcoming.

Penalty for attaching property, if no arrear be due.

VI. If any person vested with the power of distraint, shall attach, or cause to be sold, the property of any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, for arrears of rent or revenue, and it shall appear upon trial that no arrear was due, the distrainer shall be compelled to restore the property to the owner; or to make good to him the value of it, if it

shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming; and to pay to him as damages a sum adequate to the value of such property, and all costs of suit.

Attachment not to take place, if the defaulter shall tender the arrears upon demand.

VII. If the defaulter, in the presence of two credible witnesses, shall tender the arrears demanded of him, to the person deputed to attach his property, such person shall receive the arrears, and shall not proceed to the attachment.

Distrainers to furnish the person they may depute to distrain, with a writing specifying the amount of the arrear, and the date on which it became due.

VIII. Distrainers shall deliver to the person whom they may depute to attach the property of a defaulter, a writing under their signature, specifying the amount of the arrear for which the attachment may be issued, and the date on which such arrear became due. The person so deputed shall produce this writing as his authority for making the attachment, and on the day on which he may attach the property, shall deliver a copy of it to the stated defaulter, endorsing thereon a list or inventory of the property attached, and the name of the place where it may be lodged or kept, with a notice setting forth the amount of the arrear due, and stating the intention of the distrainer, to bring the attached property to immediate public sale for the discharge of it; unless the amount and expenses of the attachment be previously paid. If the defaulter on receiving this notice shall neglect to pay the amount due from him, or to give such assurance of early payment as may be satisfactory to the distrainer; or, if the defaulter shall have absconded, or be otherwise absent, so that the notice cannot be served on him; the distrainer is to transmit an inventory of such part of the attached property as can be brought to immediate sale, to the nearest *cauzy*, or other public officer, empowered to sell distrained property; with a written request, that he will cause the same to be publicly sold for the discharge of the arrear due; the amount of which is also to be specified in the application, together with the place where the property may be in attachment, and (if it be the intention of the distrainer to remove it, under the discretion vested in him by Section 10, of this regulation), the place to which it is intended to remove it. The *cauzy*, or other authorized officer, on receipt of such application, is to proceed as directed in Section 20, of this regulation. If the defaulter shall be absent, a copy of the above writing, with the prescribed endorsement, shall be fixed up or left at his usual place of residence, before the expiration of the third day, calculating from the day of attachment. If any person vested with the power of distraint, shall cause property to be attached, without furnishing the agent whom he may employ for that purpose with the writing above directed, or if such agent shall be furnished with the writing prescribed, and shall omit to deliver a copy of it, with the required endorsement to the defaulter, or in the event of his absence, to leave such copy at his usual place of residence within the period limited, the distrainer shall not be entitled to recover the arrear for which the distress may have been levied, and he shall be compelled to restore the property to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay all costs of suit.

Copy of the writing, with list of the property distrained, &c.

Amount of the arrear, and notice of the intended sale, to be delivered to the defaulter.

Inventory and particulars to be transmitted by distrainer to *cauzy* or other officer empowered to sell distrained property.

Cauzy or other officer how to proceed, on receiving applications for the sale of distrained property.

Copy of the writing to be left at his place of residence, if the defaulter is absent.

Penalty.

Attachment to be withdrawn, if the defaulter shall tender the arrear, and expenses of attachment, previous to the day of sale.

IX. If the defaulter shall tender payment of the arrear demanded of him in the presence of two credible witnesses, after his property shall have been attached, and prior to the day fixed for its being put up to sale, and also of the necessary expenses attending the attachment, the distrainer shall receive the amount of such arrear and expenses immediately upon the same being tendered, and shall forthwith release the property. In case of any dispute arising respecting the expenses of the attachment, it shall be determined by the *cauzy* of the *pergunnah* in which the distress may have been levied, or other officer, authorized under Section 27, to sell distrained property. The courts of *dewanny adawlut*, upon complaint made to them, are to punish any distrainer who may act contrary to this regulation, by awarding against him, in favour of the party injured, damages according to the circumstances of the case, with all costs of suit.

Penalty.

Property distrained not to be taken out of the *pergunnah*.

X. Distrainer shall not drive or convey distrained cattle, or other property, out of the limits of the *pergunnah* in which it may have been attached. The distrainer shall either leave the property upon the premises in the charge of any person he may think proper, or drive or convey it with due care to a proper place, as near as possible to the premises, within the limits of the *pergunnah*.

Where to be kept.

Distrained crops and ungathered products of the

XI. Distrainers who shall attach the crops or any ungathered products of the earth belonging to their under-farmers, *ryots*, or the *zemindars*, or *putteedars*, paying revenue through

Crops, when to be reaped, or gathered, and where to be stored.

through them, shall cause such crops or products to be reaped or gathered in due season, and store the same in proper houses, barns, or granaries, upon the premises, or, if there shall be no such places on the premises, in any barn or proper place which can be procured, as near thereto as possible, within the limits of the *pergunnah*. The expense of reaping, or gathering, and storing such crops or products, shall be paid by the owner upon his redeeming the property, or from the proceeds of the sale, in the event of its being sold.

Distrained cattle not to be worked, nor goods or effects used.

Distrainers to provide food for cattle or live stock.

XII. Distrainers shall not work the bullocks or cattle, or make use of the goods or effects distrained. They shall provide the necessary food for the cattle or live stock, the expense attending which shall be paid by the owner, upon his redeeming the property, or from the proceeds of the sale, in the event of its being sold.

Expense how to be defrayed.

Penalty for distrainers neglecting to take due care of the property distrained.

XIII. If property distrained shall be stolen, or lost, or be damaged, injured, or destroyed, by the weather or otherwise, whilst in the possession of the distrainer, owing to his not having taken the necessary precautions for the due keeping and preservation of it, he shall make good the loss or damage to the owner.

Distress to be proportionate to the arrear.

Penalty for excessive distress.

XIV. The distress levied shall not be excessive, or in other words, the property seized shall be as nearly as possible proportionate to the amount of the arrear. If any person vested with the power of distraint shall attach any property the value of which shall be disproportioned to the arrear, and it shall be proved that he could have seized other property of less value, and which would have been sufficient for the liquidation of such arrear, the court of *dewanny adawlut* shall award to the owner damages according to the circumstances of the case, with all cost of suit.

Attachment to be made between sun-rise and sun-set.

Penalty for attaching property after sun-set, and before sun-rise.

XV. All attachments shall be made after sun-rise, and before sun-set. If any person vested with the power of distraint, shall seize, or attempt to seize, the property of any defaulter after sun-set and before sun-rise, for the discharge of arrears of rent or revenue, such distrainer shall not be entitled to recover the arrear, and, if the property shall have been attached, shall be compelled to restore it to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, with all costs of suit.

Transfer of a defaulter's property to prevent distraint, invalid.

Penalty for persons to whom such transfers may be made.

XVI. If any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, shall make a fraudulent conveyance or transfer of his property to prevent the attachment of it for arrears, the court of *dewanny adawlut*, upon proof thereof being made before it, shall cause the property to be delivered up to the distrainer, and compel the person to whom such transfer or conveyance shall have been made, to pay to the distrainer damages adequate to the value of one-half of the property, with costs of suit.

Punishment for under-farmers, &c. resisting an attachment, or forcibly or clandestinely taking away their property after it has been attached.

XVII. *First.* If any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, shall resist the attachment of his property, or shall forcibly or clandestinely take it away after it shall have been attached, the court of *dewanny adawlut* shall cause him, and all persons who may have been proved his aiders or abettors, to be imprisoned in the jail until he shall restore the property to the distrainer, or the arrear shall have been liquidated by the distraint and sale of other property, or otherwise discharged, with the expenses attending the attachment and costs of suit.

Further penalties for resistance to attachments for arrears of rent, as prescribed by the regulations.

Offenders liable to damages equal to twice the amount of the property rescued from attachment.

And property taken away may be re-attached, wherever found.

Offender and all persons concerned with him, also liable to be apprehended and prosecuted for any breach of the peace.

Second. In addition to the penalties provided by the above clause, it is hereby declared, that if any under-tenant, of whatever description, shall resist, or cause to be resisted, the attachment of his property for arrears of rent in the mode prescribed by the regulations, so as to prevent the attachment from taking place, or shall forcibly or clandestinely take away such property after it shall have been attached; such offender shall, on proof before the *dewanny adawlut*, be made liable to damages to the distrainer, equal to twice the amount of the property rescued from attachment; and the property so taken away may be reattached by the distrainer, wherever it may be found. The offender and all persons concerned with him in resisting the attachment, are moreover declared liable to be apprehended and prosecuted before the criminal courts for any breach of the peace committed by him in such resistance to the attachment; and the police officers, on information thereof, are immediately to repair to the spot, and to take all proper measures under the regulations, as well to apprehend and to send to the magistrate, any persons who may appear to have broken the peace, as to support distrainers in the due exercise of the legal powers vested in them. If any person,

person not being the defaulter, or responsible for him, claim as his right the property distrained, and the distrainer shall notwithstanding cause the same to be sold; the claimant, on proof of his right in the *dewanny adawlut*, and in the event of the distrainer being unable to prove that he was responsible for the arrear, on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with all costs and damages, according to the circumstances of the case. But no claim to crops upon the ground, or to any gathered product of the ground attached in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall bar the prior claim of rent, due for the ground upon which such crop or product may have been grown; it being the undoubted right of the owner of the land, or his representative, to consider the produce of it mortgaged to him, for the rent of the land in the first instance; and in default of his rent being paid as engaged for, (or determinable by local rates and usage where there may be no specific engagement,) to distrain and sell such part of the product as may be necessary to make good the arrear due to him.

Police officers how to act on information given in such cases.

Claims to property distrained and sold, to be preferred in the *dewanny adawlut*.

Judgment for value of such property, with costs and damages, to be given against the distrainer.

But no claim to crops attached in possession of defaulter to bar the prior claim of ground rent.

XVIII. If any person, not being the owner, shall be convicted of forcibly or clandestinely taking away property that has been distrained, the court of *dewanny adawlut*, upon proof thereof being made before it, shall cause such person or persons to be imprisoned until they restore the property, or make good the value of it to the distrainer, and pay to him as damages a sum equal to the value of such property, and all costs of suit.

Punishment for persons not being the owners forcibly or clandestinely taking away property which has been attached.

XIX. *First.* Distrainers are empowered to force open any stable, cow-house, barn, *golah*, granary, or other building, and to enter any dwelling-house, the *outer* door of which may be open, (excepting the apartments in such dwelling-house which may be appropriated for the *zenana* or residence of women,) and to break open the door of any room in such dwelling-house, for the purpose of attaching any property belonging to a defaulter which may be lodged therein. But if any person shall enter a dwelling-house, or break open any stable, cow-house, barn, *golah*, granary, or other building, not occupied by, or in the possession of the defaulter, to distrain property belonging to him, and no such property shall be found therein, the distrainer shall be liable to prosecution by the occupant or possessor, for entering such house, or breaking open such stable, or other building, and the court shall award to him damages according to the circumstances of the case, with all costs of suit.

What places distrainers may force open to attach the property of defaulters.

Penalty for entering any dwelling-house, or breaking open any place not occupied by, or in the possession of the defaulter, should no property belonging to him be found therein.

Second. When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the *outer* door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, he is at liberty to represent the same to the *tehsildar*, within whose jurisdiction the house may be situated; and on such representation, the *tehsildar* is to send a police officer to the spot, in the presence of whom, the distrainer is authorized to force open the *outer* door of the dwelling-house, in which he may have reason to suppose the defaulter's property to have been lodged; in like manner as he is above authorized to break open the door of any room within a dwelling-house, except the *zenana*. He may also, in the presence of the police officer, after due notice given for the removal of any women within the *zenana*, and after furnishing means for their removal in a suitable manner, if they be women of rank, who according to the custom of the country cannot appear in public, enter the *zenana* apartments for the purpose of attaching any of the defaulter's property deposited therein; but such property, if found, shall be immediately removed from such apartments, after which they are to be left free to the former occupants; and nothing in this section, is to be understood to authorize any distrainer, or his agent, to force open the outer door of a dwelling-house, or to enter the apartments of women, which by the usage of the country are considered private, in any other mode than that herein prescribed; a wilful deviation from which, will subject the offender to heavy damages, besides forfeiture of the arrear of rent, on account of which the distress may be levied.

Distrainer in presence of police officer may force open the outer door of a dwelling-house in which he has reason to suppose the defaulter's property to be lodged.

And with certain precautions may enter *zenana* apartments to attach property.

But such property to be immediately removed; and the apartments left free to former occupants.

Penalty for forcing open the door of a dwelling-house, or entering the apartments of women considered private, in any other mode than is herein prescribed.

Third. In all cases wherein persons authorized to distrain property for arrears of rent, may apply to the *tehsildar* of the jurisdiction to depute a police officer to be present at the time of making the attachment, with a view to prevent resistance or other breach of the peace, the *tehsildar* shall, as far as may be in his power, immediately comply with such applications; and the police officers so deputed, shall use every means in their power to prevent

Tehsildars on application to depute an officer to be present at attachment for arrears of rent.

Officers so deputed, to use every means to prevent resistance or other breach

of the peace, and to observe the conduct of distrainers.

prevent resistance or other breach of the peace in such cases; he shall also give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereon, if afterwards required, either before the judge or magistrate.

Rules regarding the sale of distrained property.

XX. *First.* After the expiration of the fifth day, and before the elapse of the eighth day, calculating from the day following the day on which the attachment of the property of a defaulter shall have taken place, or, if the property attached shall consist of crops, or other ungathered products of the earth, after the elapse of the fifth day, and before the expiration of the eighth day, commencing from the day following the day on which such crops or products may have been stored as directed in Section 11, the distrainer shall apply to the *cauzy* of the *pergunnah*, or other authorized officer, to have the same appraised and sold. Upon the receipt of such application, the officer shall proceed as follows:—He shall fix up on the outer door of his own house, and at the place at which he may determine to dispose of the property, a list of the property attached, with a notice, which shall specify; First, the place at which the property is to be sold, which shall be on the spot where it may be lodged by the distrainer, or at the nearest *gunje*, *bazar*, or *haut*, or any place of public resort, where the officer may be of opinion it is likely to sell to the best advantage. Secondly, the day on which it is to be sold; which shall be as early a day as may be compatible with a due observance of the other directions contained in this section. Thirdly, the time of the day when the sale is to be made; which shall be during the hours of business, when the greatest number of people may be supposed to assemble. The publication of the intended rule shall also be made by beat of drum; on one market day, at the least, before the market day, on which the sale shall take place; as well as on the morning of the day of the sale. And the sale shall, in no case, take place before the expiration of five complete days, after the attachment; exclusive of the day on which the attachment may have been made. The same principle is to be observed with respect to the sale of ungathered products, after the distrainer shall have gathered, and stored them, as required by Section 11; and which are not to be sold until publication shall have been made as above directed. The officer shall nominate two creditable persons, competent by their profession, trade, or occupation, to appraise the property. The persons so appointed, shall appraise the property according to the current price which the several articles may then bear in the country, and shall deliver the particulars of the appraisement in writing, and attest the same with their signatures, and shall certify in writing at the foot of the paper, that they have appraised the property according to the best of their knowledge and judgment. The officer shall affix his seal to the paper of appraisement, and cause it to be stuck up on the outer door of his own house, and at the place where the property is to be sold. The property shall be brought to the place of sale on the morning of the day of sale, in order that it may be examined by the persons intending to bid, unless it shall consist of grain or other products of the earth, the removal of which would be attended with considerable expense; in which case, samples only, indiscriminately taken from each article, shall be brought to the place of sale, and exposed for the purpose abovementioned. The property shall be put up to sale in one lot, or in two or more lots, as the officer may think advisable. The property shall be disposed of for the highest price that may be offered for it. If the property shall sell for more than the amount of the arrear, the overplus, after deducting the charges attending the attachment and sale of it, shall be returned to the defaulter. If the proceeds of the sale shall be insufficient for the discharge of the arrear, and the expenses attending the attachment and sale, the distrainer shall be at liberty to attach other property belonging to the defaulter, and to cause it to be sold to make good the deficiency. The officer is in every case to examine the defaulter's statement of the expenses consequent to the attachment and sale of the property, and to reject any part of it that may appear to him unreasonable. If any person vested with the power of distraint, shall sell or dispose of property which he may have attached for arrears of rent or revenue, in any other mode than that prescribed in this section, he shall forfeit the arrear for which the distress may be levied to the defaulter, and make good to him the value of the property sold or disposed of, with all costs of suit.

Distrainer to apply to the *cauzy* of the *pergunnah* to sell the property.

Acts to be done by the *cauzy* or officer on receipt of the application, viz. to publish at the places herein specified, a list of the property;

the place of sale;

the day of sale;

the hour of the day when the sale is to be made;

publication to be made by beat of drum;

no sale to take place before the expiration of five days from the attachment.

The same rule in regard to products, ungathered at the time of attachment.

To appoint appraisers to value the property;

to fix up the paper of appraisement at the places herein specified;

to cause the property, or samples of it, to be brought and exposed at the place of sale;

to put up the property to sale in one, or two, or more lots; to dispose of the property to the highest bidder;

to return any overplus in the proceeds to the defaulter;

to sell further property for any deficiency;

and to examine and check the distrainer's statement of expenses attending the attachment and sale.

Penalty for distrainers disposing of distrained property in any manner excepting that herein directed.

Second. As a compensation to *cauzies* and other public officers empowered to dispose of property under distraint, both for their personal trouble, and for the expense they may incur in publishing and making such sales, as well as in causing the attached property to be appraised,

Commission to be drawn by officers authorized to sell distrained property if the sale take place, but not otherwise.

praised, as directed by this section, they shall draw commission of one anna in the rupee, on the amount sales of the property sold by them; to be deducted from the proceeds, and charged to the account of the defaulter, with the other expenses attending the attachment. But no such commission shall be drawn, nor any charge made to the defaulter beyond the expenses actually and necessarily incurred, in the event of the sale being stopped by his discharge of the arrear due from him or otherwise. It is expected that this allowance to the officers entrusted with the sale of distrained property, will ensure the faithful discharge of the trust reposed in them; and any collusion with the defaulter, distrainer, or purchaser, or other misconduct in the execution of the duty committed to them, will render them liable to immediate dismission from their offices, in the mode provided by the regulations; besides subjecting them to the other penalties therein specified, and full damages to the party injured.

Faithful discharge of trust expected in consequence of such allowance.

Punishment of collusion or other misconduct.

Third. Such *cauzies* only shall be competent to sell distrained property, as are commissioners of law suits, appointed under Regulation XVI. 1803; or may be thereunto authorized by a particular commission *(sunnud)* under Section 27.

What *cauzies* shall be competent to sell distrained property.

XXI. The *cauzy* or officer is to be careful to prevent any unfair practices either in the appraisement, or sale of property. Upon proof being made before the court of *dewanny adawlut* of the *zillah*, of his conniving at any such practices, the court shall cause him to make good any loss or injury that the defaulter may have thereby sustained, with costs of suit; and shall immediately report the circumstances of the case to the Sudder Dewanny Adawlut, for the information of the Governor General in Council, who provided there shall appear to him sufficient reason for so doing, shall dismiss such *cauzy* from his office.

Punishment for *cauzies* conniving at unfair practices, in the appraisement or sale of property.

XXII. The distrainer, the *cauzy* or officer, and the appraisers, are prohibited purchasing, directly or indirectly, any part of the property. Any *cauzy*, officer, or appraiser offending against this prohibition, shall be compelled to restore the property to the defaulter, or the full value of it, in the event of its being injured, damaged, destroyed, or not forthcoming, and shall forfeit the purchase money, which shall be appropriated to the liquidation of the arrear, and pay all costs of suit; and the court shall report the circumstances to the Sudder Dewanny Adawlut, for the information of the Governor General in Council, who if there shall appear to him sufficient ground for so doing, shall dismiss such *cauzy* from his office. Distrainers acting contrary to the prohibition contained in this section, shall be compelled to restore the property to the defaulter, or the full value of it, if it shall have been injured, damaged, or destroyed, or shall not be forth-coming, and shall likewise forfeit to him the arrear for which the property may have been attached, and pay all costs of suit.

Distrainer, *cauzy*, and appraisers, not to purchase the property.

Penalty.

XXIII. Neither the defaulter, nor any person on his behalf, shall be permitted to bid for, or purchase the property.

Defaulters not to bid for or purchase their property.

XXIV. The property shall be paid for in ready money at the time of sale, and the purchaser shall not be permitted to carry away any part of the property until it has been paid for. Should the purchaser fail in the payment of the whole, or part of the purchase money within five days, calculating from the day following the sale, the whole of the property, or the part of it which may be unpaid for, shall be resold by the *cauzy* or officer on such day as he shall fix, for the best price that may be offered for it. The first purchaser shall forfeit to the distrainer ten per cent. on the amount of the price at which he shall have purchased the property so resold, and make good to him any loss that may arise, as well as the expenses that may be incurred on the resale. If any profit shall accrue on the resale, it shall be carried to the credit of the defaulter.

Rule regarding the payment of the purchase money for distrained property.

XXV. Persons who tenant or under-farm lands in the name of their children, dependents, or others, or in the names of fictitious persons, and give themselves as the ostensible sureties for the performance of the agreement, but retain the actual management of the lands, and in fact are themselves the under-farmers, or *ryots*, of such lands, shall to all intents and purposes be considered as the under-farmers or *ryots* of such lands, and their property shall be liable to be distrained and sold for arrears under this regulation, in the same manner as if the engagement for the lands had stood in their own names.

Persons who under the names of sureties, farm or tenant lands in the names of others, to be considered the actual *ryots*, or farmers of such land.

XXVI. Landholders, and farmers of land, are prohibited confining or inflicting corporal punishment, on any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, or their

Landholders and farmers prohibited confining or in-

Inflicting corporal punishment on defaulters, or their sureties.

sureties, to enforce payment of arrears of rent or revenue. If any landholder or farmer of land, shall offend against this prohibition, the person so punished or confined shall be at liberty either to prosecute the offender for assault or imprisonment in the criminal court, or to institute a suit against him in the *dewanny adawlut* of the jurisdiction, which court shall award damages against such offender, according to the circumstances of the case, with costs of suit.

What persons are to perform the duties assigned to the *kauzy*, in the event of his absence, or of there being no such officer stationed in the *pergunnah*.

XXVII. *First.* In the event of the absence of the *cauzy*, or other public officer, authorized to sell distrained property, the *aumil* or *tehsildar*, or in case of his absence, or of there being no such officer in the *pergunnah*, such person as the judge of the *dewanny adawlut* of the jurisdiction shall think proper to vest with authority for that purpose, may and shall respectively do all such acts as the *cauzy* is authorized or directed to perform by this regulation, and under the like restrictions and penalties, as far as the latter can be inflicted.

Zillah judge to regard the character and qualifications of persons appointed by them to sell distrained property.

Second. It is expected, that the *zillah* judges will pay due regard to the character and qualifications of all persons whom they may appoint under this regulation; and they are to furnish the commissioners so appointed by them, with commissions (*sunnuds*) under their official seals and signatures in the following form:

Form of commission to be given to the persons so appointed.

"I, A. B. judge of the *dewanny adawlut* of the *zillah* of ————, in virtue of the powers vested in me by Regulation XXVIII. 1803, appointed you ———— commissioner for the sale of property distrained on account of arrears of rent: in pursuance of the above regulation, you are to reside at ———— in *pergunnah* ———— ; and are to exercise the authority vested in you by the above regulation, or by any other regulations that may be hereafter transmitted to you for your guidance, in strict conformity thereto; and are to keep a regular and complete record of your proceedings, to be produced when called for."

Native commissioners appointed under Regulation XVI. 1803, are empowered to sell distrained property.

Third. To facilitate further the sale of distrained property, every person having a commission from the judge of the jurisdiction, to hear and determine civil suits, under Regulation XVI. 1803, is authorized and required to dispose of, under the rules prescribed in this regulation, any property that may be distrained in the *pergunnah* in which he may reside and for the sale of which application may be made to him; and where the number of persons vested with this authority in any *pergunnah* or district, shall be found insufficient, the judge is empowered to appoint such number, as may appear to him requisite. But no person vested with the power of disposing of distrained property under this regulation, shall sell property that may have been distrained for arrears due to himself. Persons of this description, having occasion to levy arrears by distress, are to apply to some other person duly empowered for the sale of the property.

Commissioners for civil suits under Regulation XVI. 1803, and *tehsildars* appointed by the collectors to be considered commissioners for the sale of distrained property by virtue of their offices.

Commissioners for the sale of distrained property to furnish reports required by the *zillah* judges.

No person receiving a commission under this section to be deprived of it whilst resident on the spot, without the the sanction of the Sudder Dewanny Adawlut.

Fourth. The commissioners for the trial of civil suits appointed under Regulation XVI. 1803, and the *tehsildars* appointed by the collector for the collection of the public revenue, are to be considered commissioners for the sale of distrained property, by virtue of their offices of commissioners for civil suits; and *tehsildars* so long as they may continue to hold such offices; and any separate commissions to them for this purpose will not be requisite; but all commissioners appointed to sell distrained property, are at all times to furnish any reports, or other information that may be required from them by the *zillah* judges; and no person receiving a commission under this section is to be deprived of it, whilst he may reside on the spot, without sufficient reason assigned to the satisfaction of the court of Sudder Dewanny Adawlut, to whom the *zillah* judges are to report all appointments made, and commissions issued by them under this regulation, in the same manner, and under the same rules, as have been prescribed for the nomination and removal of commissioners for the trial of civil suits by Regulation XVI. 1803.

Rules for the appointment of commissioners for civil suits, applicable to the commissioners above referred to.

Heirs and successors of land-holders and farmers, to distrain for arrears due to the deceased, if entitled thereto.

XXVIII. Upon the death of any person vested with the power of distraint by this regulation, his heirs or successors, who may be entitled to the arrears due to him, shall be at liberty to distrain the property of the defaulters and their sureties, in the cases authorized for the recovery of the same, agreeably to this regulation. It is to be understood likewise, that managers of undivided estates belonging to two or more proprietors, are authorized to exercise the same powers for the recovery of arrears of rent or revenue, as the proprietors of the estates committed to their charge would be entitled to exercise under this regulation, were

they entrusted with the management of their own estates; subject however to the same rules, restrictions, and penalties.

Managers of undivided estates vested with the power of distraint.

XXIX. If any *gomashtah*, agent, servant, or officer, or any person vested with the power of distraint, shall attach or cause to be sold the property of any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, or their sureties, or do any act in the attachment or sale of it contrary to this regulation, the party aggrieved shall have his remedy against the principal of the offender for such illegal attachment, sale, or act, whether the same took place, or was done by the orders, or with the knowledge of such principal or not. Nothing however contained in this section, shall subject a distrainer to imprisonment in the event of any person deputed by him to attach property, entering the *zenana* or apartments of women, or breaking open a dwelling-house in opposition to the prohibition contained in Section 19, unless it shall be proved that such acts were done by the order, or with the consent or knowledge of such distrainer.

Principals responsible for the acts of agents.

Exception.

XXX. Nothing contained in this regulation shall be construed to prohibit any persons whose property may have been distrained or sold, from instituting a suit in the court of *dewanny adawlut* of the jurisdiction, against the distrainer, for any injury which they may think they have thereby sustained. Nor to prevent the several descriptions of landholders, or farmers of land, or other persons vested with the power of distraint, from prosecuting in the court of *dewanny adawlut* of the jurisdiction, for arrears due to them from any under-farmer, *ryot*, or dependant *zemindar*, or *putteedar*, or their *sureties*, should they prefer the last-mentioned mode of procedure, to distraining and selling the personal property of the defaulter, or in the cases authorized, of his *surety*, for the recovery of the arrears under this regulation. But this shall not be construed to restrict the native commissioners appointed under Regulation XVI. 1803, from taking cognizance of any suits of the above description, (the amount of which they may be competent to decide by that regulation,) whether preferred to them in the first instance in their capacity of *munsiffs*, or referred to them by the judge of the *dewanny adawlut*, under the provisions in that respect established, in the afore-mentioned regulation.

Persons deeming themselves injured by the distraint and sale of their property, may seek redress in the *dewanny adawlut*.

Persons vested with the powers of distraint, to have the option of prosecuting in the *dewanny adawlut* for arrears.

This not to restrict native commissioners from taking cognizance of suits for rent or revenue.

XXXI. All suits that may be instituted under this regulation, are to be heard and determined previous to any other suits which may be depending.

Suits instituted under the regulations, to be tried in preference to all other suits.

XXXII. *First.* Any *talookdar*, *zemindar*, or other proprietor or farmer of land, to whom an arrear of rent may be due from a dependant *zemindar*, or other under-tenant of whatever denomination, which cannot be realized by distraining the personal property of such under-tenant, and his *surety* (if he shall have given security) is at liberty, after demanding such arrear from the defaulter, and from his *surety*, if forthcoming, or without any express demand, if he have reason to believe that the defaulter or his *surety* is prepared to abscond, to cause the immediate arrest of such defaulter and his surety in the manner following.

Any landholder or farmer to whom an arrear of rent may be due from an under-tenant, which cannot be realized by distress, may cause the arrest of the defaulter and his surety in the manner following.

Second. The proprietor or farmer to whom the arrear may be due, or his authorized agent, is to present a petition to the judge of the *zillah*, or in cases wherein there may be reason to apprehend the immediate elopement of the defaulter, or his *surety*, to the native commissioner, appointed under Regulation XVI. 1803, within whose jurisdiction the party may reside, specifying the arrear due from the defaulter, and praying that he and his *surety* (in case he shall have given security) may be taken into custody, unless the amount be paid. On receipt of a petition to this effect by a native commissioner, appointed under Regulation XVI. 1803, he shall, if the defaulter and his *surety*, or either of them, be within his jurisdiction, immediately cause such party to be arrested; and unless immediate payment be made of the arrear demanded, shall within twenty-four hours cause him to be conveyed to the judge of the *zillah dewanny adawlut*, who shall proceed thereon in like manner as he is hereafter directed to do in the event of the petition being presented to him, and of the party having been arrested by his immediate order. But no native commissioner shall detain any defaulter or surety in custody without sending him to the judge, above twenty-four hours; under penalty of being dismissed from his office, and made liable to prosecution for false imprisonment, unless the party in arrest shall, by a written application, desire the same for the purpose of adjusting his arrear with the party who caused his arrest, and the latter shall assent thereto; in which case, his written acquiescence is to be superscribed or endorsed on the application with his signature, and to be written in such specific terms, as may leave no doubt of the time for which such assent to stay process is given.

Petition to be presented to the judge of the *dewanny adawlut* or native commissioner appointed under Regulation XVI. 1803.

What such petition is to contain.

Native commissioner how to proceed on receipt of such petition.

And judge how to proceed on the party arrested by a native commissioner being brought before him.

No commissioner to detain a defaulter or security in custody without sending him to the judge above twenty-four hours.

Except by desire of the parties, and under a written assent to stay process.

Judge how to proceed, if the petition of arrest be presented to him in the first instance.

Third. If the petition of arrest, stated in the preceding clause, be presented in the first instance to the *zillah* judge (and to save time, it is allowed to be presented either in or our of court, and by any authorized agent, whether one of the established *vukeels* of the court, or otherwise); the judge, if the defaulter or surety be within his jurisdiction, is immediately to issue a *dustuck* for the arrest of such party, and to bring him before the court, unless he pay the arrear demanded, and if such payment be not made on serving the *dustuck*, or within twenty-four hours afterwards (which time is to be allowed to the party arrested to adjust the demand) the officer charged with the *dustuck* is to complete the execution thereof by conveying the party to the *zillah* court. Provided however, that if the party arrested, shall, by a written application, request a longer period than twenty-four hours to adjust the demand against him, and the party, causing the arrest, shall by a written superscription, or endorsement on such application, acquiesce therein, the officer charged with the *dustuck* shall delay the execution accordingly; and whenever the party, at whose instance the *dustuck* may have been issued, shall by a written *derkhaust*, declare himself satisfied, and desire the arrest to to be withdrawn, it shall be immediately withdrawn accordingly; the officers charged with the *dustuck* (who are never to exceed two in number, unless in any particular case a greater number be considered necessary to prevent escape), being at the same time, paid the *tullubbana* due to them at the rate of two annas per diem, or any lower rate that may have been the customary allowance to persons deputed with revenue processes.

Dustuck for arrest issued by the judge how to be executed.

Dustuck when to be withdrawn.

Number of officers to be charged with *dustuck*.

And rate of *tullubbana* to be allowed them.

Summary inquiry to be made by the judge upon a party being brought before him;

Or case to be referred by him to the collector.

When neither he or his register may be able to examine it.

Fourth. When a defaulter, or his *surety*, may be brought to the *zillah* court under either of the two preceding clauses, the judge shall call upon him to answer the demand against him, and if he deny it, or any part of it, shall enter upon a summary inquiry into the merits of it, by examining the vouchers and accounts of the parties; or may refer the case to the collector of the district for adjustment and report, when neither the judge nor his register may be able, from other avocations, to try and determine it without delay; and where the case may not be cognizable by the native commissioners acting under them. The landholders and farmers are allowed to employ any *vakeel* they may think proper to appoint, provided he be duly empowered by them, to attend such inquiries before the collectors, as well as the summary inquiry directed in this regulation before the judge.

In what cases the defendant is to be discharged, with costs and damages.

Fifth. The judge after receiving the collector's report, if the case be referred to him for adjustment, or after completing his own inquiry, (if it be not so referred,) is to discharge the defendant, with full costs and damages, if it appear that no arrear is due from him, or that the arrear demanded has been wilfully mistated by the plaintiff; and a considerable proportion of the demand is not justly due. But if it appear that the arrear demanded, or a considerable proportion thereof, be justly due from the defendant, he is to be kept in close custody, until he pay the amount, with all costs and interest on the arrear, at the rate of one per cent. per mensem; or until the plaintiff make application to the court for his release; the plaintiff is to pay to such defendant, whilst in confinement, the same allowance for his subsistence, as is fixed for other prisoners in the jail of the *dewanny adawlut*, by Section 10, Regulation III. 1803, viz. such allowance as the judge may think proper, on consideration of the rank and situation of the prisoner, not exceeding four annas, nor less than one anna per diem; and the payment is to be made in the same manner, and under the same provision, as prescribed in the above section.

Defendant to be kept in close custody, if the arrear demanded be found due from him, and to pay costs and interest.

Subsistence allowance to be made by plaintiff.

In what cases proprietors and farmers of land may attach the farm or other tenure of their defaulting tenants.

Sixth. When an under-farmer, or other under-tenant, arrested as above described, shall not immediately discharge the arrear demanded from him, and shall in consequence be taken into custody by the judge of the *dewanny adawlut*, the proprietor or farmer of land, to whom such arrear may be owing, is at liberty to attach the farm, or other tenure of such defaulter, and to manage the same by his own agents, or in such manner as he may think proper, until the rent due to him, with the further rent that may become due after the attachment, and interest upon the whole arrear at the rate of one per cent. per mensem, shall have been liquidated from the produce. But in such cases of attachment, the proprietor or farmer making the same, shall not exact more from the cultivators of the soil, and other descriptions of inferior *tenantry*, whose rents for the current year may have been payable to the defaulter, than the defaulter himself would have been entitled to receive from them, if the attachment had not taken place (cases of collusion and illegality under the regulations excepted); and in the event of the defaulter making good the arrear due from him, with interest

Restriction against over exactions from the cultivators of the soil.

Attachment to be withdrawn on payment of the arrear due with interest.

terest at the rate of one per cent. per mensem, at any time within the current year, the attachment shall be immediately withdrawn, and a full and fair account rendered to him of all receipts and disbursements during the continuance of it.

Seventh. If the arrear be not liquidated within the current Fussily year, either by the payments of the defaulter, or his surety, or by the attachment of his tenure, the *talookdar*, *zemindar*, or other proprietor of the land, or the farmer in whose farm the defaulter's tenure may be included, (if such farmer's lease extend beyond the current year,) is at liberty, at the commencement of the ensuing year, to make such provision for the future receipt of the rents payable to him from the land tenanted by the defaulter, as he may judge proper, and may be consistent with the rights of all other persons concerned. If the defaulter be an under-farmer for the past year only, or whose lease may have expired with the past year, he can of course have no claim to any further lease; and although his lease may not have expired, if he shall have neglected to fulfil the conditions of it by the payment of his stipulated rent, it must be considered liable to be annulled, or otherwise, at the option of the lessor. If the defaulter be a dependant *zemindar*, or the holder of any other tenure, which by the title deeds or established usage of the country, is transferrable by sale, or otherwise, it may be brought to sale by application to the *dewanny adawlut*, in satisfaction of the arrear of rent, and the purchaser will become the tenant for the year; or if the defaulter be a leaseholder, or other tenant having a right of occupancy only so long as a certain rent, or a rent determinable on certain principles according to local rates and usages, be paid, without any right of property or transferrable possession, the proprietor, of whom such tenure is held, or the farmer or other person to whom such proprietor may have leased or committed his rights, must be understood to have the right of ousting the defaulting tenant from the tenure he had forfeited by a breach of the conditions of it. In such cases, (viz. in the several cases enumerated in this clause, under the stated exception when a sale of landed property may be desired,) proprietors and farmers of land are at liberty to exercise the just powers appertaining to them, without any previous application to the courts of justice; but they will be held responsible for all acts done by them, or by their agents, which may exceed their just powers, and infringe the rights of under-tenants, of whatever description, whether founded on *pottahs*, or other written deeds and engagements, or on long prescription and established local usage. This section is not meant to define or limit the actual rights of any description of landholders or tenants which can be properly ascertained and determined by judicial investigation only, but merely to point out in what manner defaulting tenants may be proceeded against, in the event of their not paying the rents justly due from them; leaving them to recover their rights, if infringed, with full costs and damages, in the established courts of justice, under the provisions already stated in this regulation for bringing such causes to determination with the least possible delay.

What further measures may be taken by the landholders and farmers for the security of their future rents.

Proprietors and farmers of land at liberty to exercise their just powers.

But will be held responsible for all acts done by them, or their agents, infringing the rights of their under-tenants.

Eighth. In like manner, in all other instances, the courts of justice will determine the right of every description of landholder and tenant, when regularly brought before them, whether the same be ascertainable by written engagements, or defined by the laws and regulations, or depend upon general or local usage, which may be proved to have existed from time immemorial; but no part of the existing regulations shall be construed to deprive the *talookdars*, *zemindars*, and other landholders of the power of summoning, and if necessary compelling the attendance of their tenants for the adjustment of their rents, or for any other just purpose; or of measuring any land, within their respective estates, which may be liable to measurement under the conditions upon which such land may have been leased or held. For the just exercise of such rights and powers, the landholders are not required to make any previous application to the courts of justice; and any person opposing them therein, will, on proof in the *dewanny adawlut*, be liable to full damages, and all costs; besides being subject, for any breach of the peace, to prosecution and punishment in the criminal courts: but the landholders, their agents and representatives, will be held answerable for any abuse or unjust exercise of the powers hereby declared to be vested in them, and on proof thereof by the party aggrieved in the *dewanny adawlut*, they will be liable to pay full costs and damages, besides a fine to Government, if the case shall appear to deserve it.

The courts of justice to determine the rights of every description of landholder and tenant.

Penalty for any opposition to the landholders in the just exercise of their rights.

Also for any abuse of the above powers by the landholders.

XXXIII. Persons confined under clause fifth, of the preceding section, and desirous of bringing the demand upon them to a regular judicial investigation and decision in the *dewanny adawlut*, are at liberty to institute a suit against the landholder or farmer, at whose instance they

Persons confined under clause fifth of the preceding section, may institute a suit in the *dewanny adawlut*.

Judgment to be passed, if the arrear denied by them be found not due; or if the demand be discharged by them, and afterwards found not due.

they may have been confined, for this purpose; and should the amount denied by them, be found upon trial not to have been due, they shall receive judgment for full costs and damages against the party by whom it may have been claimed. They shall also be entitled to a similar judgment, with interest at the rate of one per cent. per mensem, upon the amount paid by them, and found not to have been justly due from them, if they shall discharge the demand upon them, with a view to obtain their release from arrest, or from subsequent confinement under the preceding section, and shall afterwards, in a suit in the *dewanny adawlut* for recovery of the amount so paid, establish that it was not due from them at the time of the demand.

Claims rejected on the summary inquiry may be also sued for in the *dewanny adawlut*.

Judgment to be given, if such claims be established.

XXXIV. Proprietors and farmers of land, whose claims to arrears of rent may be rejected by the *zillah* judge, on the summary inquiry directed in Section 32, are also at liberty to institute a regular suit in the *dewanny adawlut* for the recovery thereof; and if on trial the amount claimed by them shall be found to have been due, when the summary judgment was given against them in the first instance, they shall be entitled to receive back any sums paid by them for costs or damages under such judgment, and to a decree from the *zillah* court, for the arrears of rent due to them, with interest at the rate of one per cent. per mensem, and the full costs incurred by them, as well on the summary inquiry, as on the regular suit.

Summary judgments under Section 32, not open to appeal.

XXXV. That no doubt may be entertained, whether the summary judgments which the *zillah* courts are authorized to pass under Section 32, are open to appeal to the provincial court of appeal, it is hereby declared, that they are not subject to appeal, as any person considering himself aggrieved by them can have his remedy by a regular suit in the *dewanny adawlut*, as above pointed out. It is also declared, that no institution fees, or fees upon exhibits, are to be levied on the summary processes authorized by the section above mentioned.

Institution fees, &c. not to be levied on summary processes.

Rules in this regulation applicable to managers of estates, as well as to the officers of Government.

XXXVI. The rules in this regulation for the recovery of arrears of rent due to proprietors and farmers of land, are to be considered equally applicable to the managers of estates, as well as to the collectors or other public officers, holding lands in attachment for the purpose of adjusting the public assessment on them, or for any other purposes; or making a *khas* collection on the part of Government, where no settlement has been made with any proprietor or farmer; and the authorized agents of such managers, collectors, or other public officers, provided they be so commissioned and instructed, are to exercise the same authority as is vested in the agents of proprietors and farmers of land, by Section 2. of this regulation.

Provisions in Section 32, extended to the agents of landholders and farmers.

XXXVII. The provisions in Section 32, as far as they can be applied, are likewise declared to extend to the *sudder* and *mofussil amlah*, or native agents of every description employed by the landholders and farmers in the management of their estates and farms, or collection of their rents. Any landholder or farmer having demands upon such agents, whilst in his service, or immediately after their resignation or dismission from his service, whether for money in their hands, or for accounts which they may refuse to render, or for any matter relating to the discharge of their respective trusts whilst in his employ, may proceed against them for their arrest and confinement, in like manner as by Section 32, of this regulation, he is authorized to proceed against defaulting under-tenants; and the *zillah* courts and native commissioners are to take the same measures for the aid of the landholders and farmers in such cases, as they are directed to take for the recovery of arrears from defaulting tenants.

Compensation to be adjudged also, with all costs of suit, for any loss or damage sustained by the wanton summons of any officers engaged in collecting the rent.

XXXVIII. It is further hereby declared, that if any person shall wantonly, and without good cause, be the means of summoning to the courts of justice, civil or criminal, the principal officer engaged in collecting the rents of any *talookdar*, *zemindar*, or other landholder, or farmer of land, and a loss of rent or other evident damage shall be sustained by the landholder, or farmer, in consequence of such wanton and unnecessary summons, an action shall lie against the party who caused the summons, for such loss or damage; and on proof thereof, in the *dewanny adawlut*, or before the native commissioners, appointed under Regulation XVI. 1803, if the case be cognizable by them, the party injured shall be entitled to recover the amount, with all costs of suit.

A. D. 1814. REGULATION XVIII*

A REGULATION *for amending the Rules before enacted relative to the Demand of Arrears of Public Revenue, and to the Conduct of Sales of Land for the Recovery of the same.*—PASSED *by the Vice-President in Council, on the 23d August 1814; corresponding with the 8th Bhadoon 1221 Bengal era; the 22d Bhadoon 1221 Fusily; the 9th Bhadoon 1221 Willaity; the 8th Bhadoon 1871 Sumbut; and the 6th Ramzaan 1229 Hijeree.*

Preamble.

WHEREAS *the existing rules for serving written notices of the demand of an arrear of revenue in all cases, make it necessary to levy from defaulters sums for the subsistence of the peons serving such notices, which with respect to the inferior landholders is frequently productive of great inconvenience and loss; and it being expedient to dispense with the previous sanction of the Governor General in Council for the sale of lands for the recovery of revenue; the following rules have been enacted, to be in force from the period of their promulgation throughout the territories immediately dependant on the presidency of Fort William.*

Modification of such of the existing rules as relate to the process of notice to defaulters, and to the previous sanction of the Governor General in Council for the sale of lands for the recovery of public revenue.

II. In explanation and modification of Section 3, Regulation XIV. 1793; Section 7, Regulation VI. 1795; and Sections 3. and 7, Regulation XXVII. 1803, and clause second, Section 23, Regulation VII. 1799, as far as relates to the process of notice; and Section 11, Regulation I. 1801; Section 19, Regulation VI. 1795; and clause fourth, Section 14, Regulation XXVI. and Section 19, Regulation XXVII. 1803, as far as they relate to the previous sanction of the Governor General in Council for the sale of lands, it is hereby provided, that whenever any portion of an instalment of revenue payable in any month remains undischarged on the first of the following month, the collector may forthwith, or at any subsequent time (such arrear still remaining undischarged), cause to be served on the defaulter a written demand, as directed by the sections and regulations above cited; or without issuing or causing to be served such written demand, may advertise lands the property of the defaulter for public sale, without first submitting a statement of these lands for the previous sanction of the Board of Revenue, or Board of Commissioners, supposing the lands so advertised to constitute an entire estate, or the whole of the defaulter's rights and interests in a joint estate, (in instances coming within the provisions of Sections 9. and 10, Regulation V. 1810.) But in such case the collector shall with all convenient expedition report the same to the Board of Revenue or Board of Commissioners, and shall await the receipt of the Board's sanction, and shall on no account proceed to the actual sale of lands so advertised without the express sanction of the Board, under whose authority he is placed; Provided, that in all cases in which the lot proposed to be sold constitutes a part only of the defaulter's property in an estate, such lot shall not be advertised for sale, without a statement thereof; and of the jumma *or revenue proposed to be apportioned thereon, being previously submitted to the Board of Revenue or Board of Commissioners, and the sale thereof sanctioned by the Board's authority.*

Lands may be advertised for sale by the collectors, without making a previous reference to the Boards.

But reports to be made without delay to the Board of Revenue or Board of Commissioners.

* Rescinded by clause first, Section 2, Regulation XL. 1822.

What rule to be applicable in cases, in which a joint undivided estate shall be advertised for sale. Exception.

III. In cases in which a joint undivided estate (under butwarra*) shall be advertised for sale, the rules at present in force applicable to such cases shall be duly observed, with exception to that which requires the previous sanction of the Governor General in Council, for such sale enjoined in Section* 11, *Regulation I.* 1801.

The Boards how to proceed, on receipt of the reports from the collectors of their having advertised lands for sale belonging to defaulters.

IV. On receipt of the collector's report of his having advertised lands of a defaulter for public sale, or on receipt of any statement of lands proposed by him for sale, the Board of Revenue, or Board of Commissioners, will proceed without previous reference to the Governor General in Council, whether the arrear to be recovered be due on account of the current year, or of any former year or years, to determine whether the sale shall take place, and if so, whether at the office of the collector, and on the day specified in the advertisment already published by him (if such publication have been made), or of the secretary of the Board at a time to be notified; Provided however, that if any circumstance shall occur to create doubts as to the propriety, either on the ground of political expediency, or of its tendency to endanger the peace of the country, the said Boards shall state the circumstances of the case, with their opinion on the subject, to the Governor General in Council for his consideration and orders.

And the Boards in what cases to make a communication to the Governor General in Council for his orders.

The collectors how to act in cases, in which a postponement of a sale of lands duly advertised may be found necessary.

V. Should the Board's sanction not be received in time to proceed to the sale on the day appointed, or should the absence or sickness of the collector, or other unavoidable cause, render necessary a postponement of a sale duly advertised, the collector will publish a notice of the day on which the postponed sale is to take place, and cause such notice to be affixed in some conspicuous place at his own office, and in the court room of the nearest dewanny adawlut, *provided there be one within ten miles of the collector's* cutcherree, *and if not, at the nearest* moonsiff's cutcherree; *and if such postponement exceed the limit of an adjournment from day to day, in the principal town or village, or other most conspicuous place in the lands to be sold.*

A. D. 1822. REGULATION XI.

A REGULATION *for modifying and explaining the existing Regulations relative to the Sale of Land for the Recovery of Arrears of Revenue; for declaring Government not to be liable for any Errors or Irregularities in the Proceedings of the Courts of Justice; and for making further Provision for the Conduct of the Revenue Officers in certain Cases.*—PASSED *by the Governor General in Council, on the 22d November* 1822; *corresponding with the 8th Aughun* 1229 *Bengal era; the 23d Kautick* 1230 *Fussily; the 9th Aughun* 1230 *Willaity; the 8th Kautick* 1879 *Sumbut; and the 7th Rubee-ul-Awul* 1238 *Higeree.*

Preamble.

THE existing regulations relative to the public sale of estates for the recovery of arrears of revenue appear to be defective, inasmuch as they do not specify the conditions which are to be held necessary to the validity of such sales, nor define with sufficient precision and accuracy, the nature of the interest and title conveyed to the persons purchasing estates so sold; various doubts have accordingly arisen on both these questions, which it appears necessary and proper to remove by a legislative enactment; and it is also expedient further, to regulate the course of proceeding to be hereafter followed in regard to sales of the above description, in order better to guard against error or irregularity in the conduct of them. With the view too of securing the *zemindars* from the risk of that injury and hardship which experience has shewn, must in many individual cases result from the absolute confirmation of sales in all cases in which the prescribed conditions may have been observed, it has appeared desirable, distinctly to vest the Revenue Boards with the power of annulling sales made by the collectors under their authority, not only in cases in which they may appear to have been irregularly conducted by those officers, but also in cases in which the defaulter may clearly appear to have been defrauded or deceived by his own agents, or in which the confirmation of the sale may from any cause appear to be a measure of excessive severity, or to be otherwise inexpedient or improper. Cases also have occurred in which the revenue officers of Government having been executively employed in giving effect to orders issued by the *sudder adawluts*, which the decision of the superior courts has declared to be irregular and illegal, Government has been held responsible for the acts done by the said officers in virtue of the orders aforesaid, contrary to the real intent and meaning of the existing law, and it has therefore become necessary to declare, that Government is not liable for any errors or irregularities in the proceedings of the courts of justice, whether the revenue officers may or may not be employed in giving effect to the proceeding or order, deemed to be erroneous or irregular. It has further appeared expedient to make certain other additions and modifications in the regulations prescribed for the conduct of the revenue officers. With the view therefore to the above objects, the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation throughout the provinces of Bengal, Behar, Orissa, and Benares, and in the ceded and conquered provinces, including the district of Cuttack.

Certain parts of the existing regulations rescinded.

II. *First.* Sections 13, 25, 26, 27, and 28, Regulation XIV. 1793; Sections 19, 29, 32, 33, 34, Regulation VI. 1795; Regulation V. 1796; Section 28, and Clauses 2, 3, 4, and 5, Section 29, Regulation VII. 1799; Sections 3, 5, 6, 7, and 11, Regulation I. 1801; Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, Regulation XXVI.; Clause 5, Section 17, and Sections 19. and 29, Regulation XXVII. 1803; and Regulation XVIII. 1814, are hereby rescinded.

Further provisions rescinded.

Second. Regulation XII. 1796, and Regulation V. 1800, in so far as the same are applicable to public sales for the recovery of arrears of revenue, together with such parts of Sections 3, 24, and 25, Regulation XIV. 1793; Sections 7. and 31, Regulation VI. 1795; Section 23, Regulation VII. 1799; Section 31, Regulation XXVII. 1803, and of any other of the regulations in force which prescribe, or shall be construed to prescribe, that the revenue officer shall issue any *tuklub-chittee*, *dustuk*, or other process of demand on persons from whom arrears of revenue, or other demands similarly recoverable, may be due, or that they shall attach the estates or farms in the possession, or management of such defaulters, before bringing their property to a public sale, as well as such part of the abovementioned and any other regulations which restrict, or can be construed to restrict, the powers of the revenue officers in selecting lands for sale on account of arrears of public revenue, or the period of sale, and which may not be re-enacted by this regulation, are hereby rescinded.

Rules rescinded or modified by the said rules, or provisions, still to be repealed or modified as heretofore.

Third. The several rules and enactments rescinded or modified by the provisions above recited, or any of them, shall be and continue repealed, or modified as heretofore.

Declaration as to the liability of lands to public sale for arrears of revenue.

III. *First.* The regulations of Government having made the estates of proprietors under engagements with Government primarily answerable by public sale for any arrear in the monthly payments of the revenue, as defined in Section 2, Regulation III. 1794, and in the corresponding enactments of the regulations applicable to Benares, and to the ceded and conquered provinces; and the property of all persons under stipulations with Government, whether as proprietors for their own estates, or as farmers or managers, and their sureties, being likewise answerable for such arrears; it is hereby declared and provided, that the collectors of land revenue shall, with the sanction of the Board of Revenue, or other authority exercising the powers of that Board, be entitled to have recourse to this process for the realization of any arrear, or interest thereon, or other revenue demand that may be due from parties so under engagements, whether any other revenue process shall, or shall not have been issued, and at any time of the year when the same may be unpaid, subject only to such rules and restrictions as are specifically prescribed in this, or any other regulation.

Estates while under court of wards not liable to sale.

Second. Estates under the superintendence of a court of wards, shall not be liable to sale for arrears accruing during the period they may be so managed.

Joint estates and estates under attachment, only to be sold at the end of the year.

Third. Joint estates shall not be liable to sale for arrears that may accrue during the progress of a *butwarra* or partition, until the expiration of the year within which the arrear may become due. In like manner, estates under attachment by order of the courts of justice, shall not be liable for sale in the middle of the year, for arrears accruing during the period of such attachment.

Further restrictions in regard to sale of lands may be exercised by Government and by Boards, and Government may annul sales at any time within three years, if made in contravention of, such instructions.

Fourth. Provided further, that it shall be competent to the Governor General in Council to impose on the Revenue Boards and subordinate revenue authorities, such further restrictions in regard to the sale of lands for arrears of revenue, as may from time to time appear necessary; and if any sale shall be made by any collector or other officer in contravention of an order or instruction issued by Government, such sale, though not voidable under the provisions of Section 5, shall nevertheless be liable to be annulled by the Governor General in Council, at any time within three years of the date of sale.

Sales for arrears of revenue, to be made by revenue officers

And not to be annulled except on grounds specified.

IV. Sales of land for arrears of revenue shall be made under the following rules by the collectors of revenue, or other officers authorized in that behalf by Government, and no sale made in conformity with the said rules, and duly confirmed by the superior revenue authorities, shall be liable to be annulled, set aside, or altered by any court of judicature, on account of any error or irregularity in the previous process used for the recovery of the arrear claimed, or on account of any error, irregularity, or omission whatsoever, not involving the failure of one of the conditions hereinafter specifically declared to be essential to the validity of public sales; but any person, who may consider himself aggrieved by any act, or circum-

stance connected with a sale not amounting to such failure, shall have his remedy in a personal action for damages against the individual by whom, or by whose fault he may have been endamaged.

V. The conditions of the validity of a public sale for the recovery of arrears of revenue are the following.

Conditions necessary to validity of sales.

1*st*. That the lands or *mohaul* sold form the estate on account of which the arrear has accrued, or are parcel of such estate, and be liable to sale consistently with the principle and provisions declared and enacted in this regulation; or, if not the estate or parcel of the estate as aforesaid, be the property of the defaulter or his surety, or being the property of such defaulter or surety, shall have been specially pledged to answer the demand in arrear.

2*d*. That permission to make the sale shall have been received from the Boards of Revenue, or other authority exercising the powers of those Boards, previously to the day of sale.

3*d*. That due notice of the demand and of the intention of the collector to sell, as well as of the time and place of sale, shall have been given, as hereinafter provided.

4*th*. That some part of the amount demanded in the notice, or of the interest payable thereupon, shall be due at the time of the lot being put up.

5*th*. That the sale shall be made at the time and place stated in the advertisement, and with the due publicity and freedom, as hereinafter specifically directed.

Collector desiring to sell, how to apply for the Board's permission.

Statement of lands for sale to be forwarded.

VI. *First*. Whenever a collector, or other officer shall deem it necessary to resort to a sale of lands for the recovery of arrears of revenue, he shall transmit to the Board of Revenue, or other authority exercising over him the powers of that Board, a statement containing the name of the *mohaul* or *mohauls* proposed to be sold, the name of the registered proprietor, or proprietors, or such of them as may be ordinarily used in designating the estate, the amount of the Government *jumma*, and of the arrear due. If the lands proposed for sale form a parcel, or fractional part of an estate, the collector or other officer aforesaid, shall further explain, for the information of the Board or other authority aforesaid, the grounds on which he may have fixed the proportional assessment. Along with the said statement the collector, or other officer aforesaid, shall transmit a copy of the notice of sale which he may have issued, or may propose to issue, under the rules hereinafter prescribed.

With copy of notice.

Board how to proceed on receiving statement from collector.

The Board of Revenue, or other authority exercising the powers of that Board, on receiving the above statement, will determine on the propriety of resorting to a public sale. If they deem it necessary or proper to make the sale in the manner proposed, they shall communicate to the collector, authority to that effect: if there shall be any cause why the sale should not take place on the day fixed by the collector, it shall be competent to the Board or other revenue authority aforesaid, at any time previously to that date, to appoint any subsequent day, and they shall in such case instruct the collector to give notice of the sale being so postponed, in the manner hereinafter prescribed for cases of postponement, causing at the same time, a notice of the postponement to be inscribed on the advertisement transmitted by the collector for publication in their secretary's office. It shall be competent to the Board, or other authority aforesaid, in like manner, repeatedly to postpone the sale of any estate, in the event of any thing arising to render it expedient to do so.

Board may postpone sale.

Causing notice to be given of postponement.

Repeated postponements may be made by the Board.

Second. Provided however, that if the Board, or other authority aforesaid, shall see reason to direct the sale of a portion only of the lands proposed by the collector to be sold, or of different lands, or to make any alteration in the amount of the *jumma* proposed by the collector, or to change the place of sale, it shall in such case be necessary, that a fresh *list-bundee* be prepared, and that a notification of the proposed sale be published in the district, and at the office of the secretary to the Board, or other authority aforesaid, in the same manner and for the same period, as is prescribed for the publication of advertisements issued in the first instance by the collectors.

If alteration made in the *mohaul* to be sold, its *jumma*, or in place of sale, fresh publication necessary.

Third. No sale, whether made before or after the promulgation of this regulation, shall be liable to be annulled on the ground of informality, or omission in the communications that may have passed between the collector and controlling Board: provided that the Board shall have actually given authority to proceed to the sale of the specific lot sold.

Sales of land not liable to be annulled on ground of informality or omissions in communications between collectors and

Board, provided authority to sell have been given.
In what cases collector may advertise, without previous reference.

VII. *First.* The following rules shall be observed in issuing notice of sale, after leave shall have been obtained in the manner prescribed in the preceding section: provided however, that whenever a collector proposing to have resort to a public sale of any estate for arrears of revenue, shall deem it desirable to avoid the delay incident to a previous reference to the Board, then, provided the arrear, or any part of it shall have been due not less than fifteen days, it shall be competent to the collector to issue the notice, of his own authority, without waiting the sanction of the Board of Revenue.

Notice of sale what to contain, and how to be issued.

Second. Every notice of the sale of lands for arrears shall, in case the lands be situated in Bengal or Orissa, exclusive of Cuttack, be written in the Persian and Bengalee languages; if in Cuttack, in Persian and Ooreea; and if in any of the other provinces, in Persian and Nagree. The aforesaid notice shall contain a statement of the demand on account of which the sale is to be made, and a specification of the estate or *mohaul* to be sold, and of the *jumma* assessed on it, as well as of the day and place of sale.

Copy of notice to be stuck up in *cutcherree* of collector, and in court.

Third. A copy of the notice shall be stuck up in some conspicuous part of the collector's *cutcherree* or place of office for the time being, and another copy shall be sent to the judge or other person in charge of the *adawlut* of the district in which the lands, or some part of them may happen to lie, who shall on receipt of it cause it to be similarly exposed in a public part of his *cutcherree* or *adawlut*; a third copy shall be sent to the Board of Revenue, or other authority exercising the powers of that Board, for publication in the office of its secretary. A like notice shall be sent by a single *peon* to be published on the estate or in the *mofussil* in the manner following. The *peon* shall first proceed to the *cutcherree* or residence of the defaulter, and upon obtaining a receipt under his hand, or under that of his manager, shall leave the notice in the possession of either of those persons. If the *peon* shall not be able to obtain a receipt as above, he shall proceed to the *cutcherree* of the *canoongoe*, *moonsiff*, or *thanadar*, within whose jurisdiction the said *cutcherree* or residence may be, and shall cause the notice to be affixed to some accessible and exposed part of the building, bringing away a receipt from the officer at whose station the publication may have been made. Provided however, that in case any *malgúzar* or *malguzars* should give in a written application to the collector, praying that notices of arrears and of sales on account of the revenue due from them, either on account of their estates generally, or for any estate specifically named, may be served on their agents, or at the house of any *mahajun* at the *sudder* station, or other person duly authorized on the part of such *malgukar*, or *malguzars*, to receive and forward the same to him or them; then the receipt of the person or persons so authorized shall be deemed a full and sufficient acknowledgment of the service of such notice, and the *tullubbana* leviable on the issue of the same shall be calculated with reference to the distance of the residence of such authorized agents from the collector's office.

And in office of Board.
Publication made on estates.
Manner of publication in *mofussil*.

What publication sufficient for validity of sale.

Fourth. No sale shall be liable to be annulled on the ground of any insufficiency of the notice given, provided it be satisfactorily proved, that the copy of the notice required to be sent to the court for publication, was received by the judge, or other person in charge of the *adawlut*, for a period of thirty days prior to the date of sale; and provided there be sufficient evidence, that the notice directed to be sent into the *mofussil*, was received by the parties, or by any manager, or agent on their part, or was published at a public *cutcherree* after the manner provided, on a date prior to that on which the sale may have taken place, by not less than twenty days, or provided it be satisfactorily proved by other circumstances, or there be sufficient ground to presume, that the defaulter was fully aware of the demand being outstanding against the *mohaul*, and of the intended sale, for a like period before the day of sale.

Course to be followed by the collector, in case the registered proprietor of an estate ordered for sale be a native officer, or soldier on the regular military establishment of this presidency.

Fifth. Provided however, that if any of the registered proprietors of an estate, which a collector may propose to bring to sale for arrears of revenue, shall be entertained as a native officer or soldier in the regular military establishment of this presidency, and shall have notified the circumstance to the collector in the manner required by clause first, Section 9, Regulation XV. 1816, it shall be the duty of the collector to follow the course prescribed in that section, before proceeding to the actual sale of the estate.

VIII. *First.* In case of any sale being postponed, whether by orders of the Board of Revenue, or of any other authority exercising the powers of that Board, or in consequence of the collector's seeing reason to put off the sale to a subsequent date, the collector shall, on or before the day originally fixed for the sale, stick up in his own *cutcherree* an advertisement notifying the postponement, and the date on which the postponed sale is to take place, and shall transmit a counterpart to the judge of the district, who shall cause it to be similarly published at his court house. This rule shall not, however, apply to cases in which any sale may have been postponed in consequence of any alteration in the lands advertised for sale, or of the *jumma* assessed thereon, or of the place of sale, in which case, a fresh *lothundee* and advertisement will be necessary, as above provided.

What notice required in cases of postponement.

In what cases fresh advertisement to be issued.

Second. If, after the day appointed for the sale shall have arrived, and the assembly shall have been convened, the collector shall publicly adjourn the meeting, or put off the sale of any estate from day to day, either on account of illness, or because of the day's having closed, or from the press of other business, or as an indulgence to, or at the request of the defaulters, or any of them, or for any other cause, which he may deem good and sufficient in any such case, it shall be the duty of the collector to cause a notification of the circumstance to be inscribed in the original advertisement made in his *cutcherree*, over against the name of the estate or estates, of which the sale may be put off: provided however, that if such adjournment shall take place after the bidding for any lot shall have begun, and before the lot is knocked down, the collector shall hold a proceeding recording the last offer, and the name of the bidder; and if he resume the sale, at the adjourned meeting, he shall again put up the lot at the price so offered, unless the bidder shall have formally retracted his bid, *or having been thrice called, shall not be forthcoming.*

What notice to be given in case of adjournment.

Proviso for cases in which the bidding may have commenced.

IX. In regard to sales, which may have been made prior to the enactment of this regulation, the decision of the courts on the question of their validity, *in so far as relates to the* adequacy of the notice, which may have been served on the party, or otherwise issued, shall be guided by the principles stated in the fourth clause of the 7th Section of this regulation, that is to say, no sale shall be annulled by any of the said courts on the plea of want of due notice, provided it can be proved, or there be sufficient reason to presume, that a notice of sale in any one of the languages prescribed by the regulations was served on the defaulter, or affixed or published in any part of the estate sold, one month prior to the date of actual sale, and that the purport of the notice was understood by the defaulter, his agents, or two or more of the residents of the place, who may have witnessed the publication. Provided further, that in cases in which any sale made previously to the enactment of this regulation, may have been postponed from the day appointed by the advertisement to the next or ensuing day of public business, if the meeting was publicly adjourned, and the persons assembled were fully informed of the postponement of the sale, and attended accordingly in such number and manner as that the second meeting may be fairly deemed to have been a continuance by adjournment of the first, such sale shall not be liable to be set aside as void or invalid, upon any plea that the notice, or notices required in cases of postponement were not duly served or published.

Declaration as to the application of the above principles to past sales.

X. *First.* Previously to putting up any estate to sale, it shall be the duty of the collector, or other officer holding the sale, to satisfy himself that some part of the advertised arrear, or of the interest and charges due on account of it, is still unpaid. If the defaulter or any one in his behalf shall deny the existence of an arrear, it shall still be competent to the collector or other officer to proceed with the sale, unless the sum demanded by him shall be paid in, or a tender made of Government securities, or notes of the Bank of Bengal, equivalent to the entire demand, and five per cent. in addition, to cover eventual charges; or unless a certificate be furnished under the seal and signature of the judge of the district, shewing the amount to have been deposited in court.

Before sale, arrear to be ascertained.

Second. Provided however, that in cases of sales held at the office of the secretary to the Board of Revenue, or other similar authority, no payment or deposit made in the *zillah* shall be deemed sufficient to stay or invalidate a sale, unless the same shall have been made at such a period before the date of sale, as to enable the collector, or other officer receiving the same, to communicate the information to the Board by the ordinary *dawk*, or unless the

Proviso for sales held at the office of the Board.

party shall himself produce to the officer conducting the sale, a certificate of such payment or deposit having been made under the seal and signature of the collector or judge of the district, before the lot is put up for sale.

Parties paying, or depositing amount demanded, may sue to recover. Proviso.

Third. Parties paying, or depositing as above, the amount demanded from them, will of course be entitled to sue under the rule contained in Section 23. of this regulation, provided they at the time deny the justness of the demand in writing, and proceed within the prescribed period: but after a sale shall have been made, it shall not be liable to be annulled by any court of judicature, on the plea that no arrear was justly due, unless the said plea shall have been preferred to the collector or the Board prior to the sale, or previously to its confirmation by the latter authority, or good and sufficient reason be shewn, why such denial could not be made. Provided also, that no claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, nor any private demand, or cause of action whatsoever, held or supposed to be held by a *zemindar* or other engager against Government, shall be allowed to bar, or in any way affect the right of Government and its officers, summarily to enforce the payment of the public revenue by the sale of the lands, or property of the person, so long as any part of the assessment for which such *zemindar*, or other person aforesaid may be liable, shall remain undischarged.

Declaration as to arrears accruing under attachment, or during dispossession.

XI. All estates for which a settlement shall have been made, being liable for the revenue assessed upon them to the extent of the interests possessed by the person or persons who may have engaged with Government, as ratified and confirmed by the act of settlement, and by those deriving title from such person or persons, unless otherwise especially provided, no sale shall be annulled on the plea, that the arrear demanded accrued, while the engager or his representative was divested of possession and management of the estate sold by the act of an individual, or by the collector or other officer acting under the order of a court of judicature, or attaching the estate by virtue of the powers vested in him by this, or any other regulation.

Sales to be made conformably with advertisement.

XII. Sales shall be made at the place and time specified in the advertisement. If the sale shall have been advertised to take place at the Board of Revenue, or other authority exercising the powers of that Board, then it shall be held in the building or tent used as an

By whom, and where to be made, if at Board.

office by the Board, or authority aforesaid, or in some convenient and public apartment, or other open and convenient place thereunto belonging or adjoining, in the presence of the secretary, or that of one of the members of the Board, or other authority as aforesaid, or of

And by whom, and when in *zillah*.

a covenanted officer duly empowered by the same to hold the sale. If the sale shall have been appointed to take place in the *zillah*, then it shall be held in the presence of the collector, or other authorized covenanted civil servant in public *cutcherree*, that is to say, in some building or tent used as an office and open to the public, or other open and convenient place thereunto belonging or adjoining. Provided also, that in the morning of the day of sale and whilst the sale shall be going on, the collector or other officer shall cause a flag to b, exhibited, or such other signal to be given at the door, or gateway of the office where the sale may be conducted, as the Board of Revenue may direct.

Every one's bid to be received.

But before concluding sale, collector shall satisfy himself:

1st. That bidder can make required deposit.

2d That he is not a person forbidden to purchase.

3d. That the ostensible purchaser is the real one.

What deposit to be made by purchasers.

XIII. When the bidding shall have commenced, it shall be the duty of the collector to receive the bid of every one without inquiry, but prior to knocking down the lot and concluding the sale, he shall call upon the person, who may have made the last offer, in order to satisfy himself on the following points.

1*st*. That the bidder has the means of making the deposit hereafter directed to be taken.

2*ndly*. That he is not the defaulter, or an officer of his own establishment, or a person acting on behalf of either the defaulter or such officer.

3dly. That the person or persons named, is or are the real *bonâ-fide* purchaser or purchasers on their own account and risk.

XIV. *First.* A deposit of 15 per cent. on the amount bid, or such other rate as the Board of Revenue, or other similar authority, may from time to time direct, shall be required by the collector from the person in whose name any lot may be knocked down, immediately no declaring the sale concluded, or as soon after, as the collector may think necessary.

Second. If the person who may have made the last offer shall not, when called upon, forthwith tender the prescribed deposit, the collector shall be at liberty to reject the bid, and to put up the lot again at the amount of the next highest offer. The person who may have made such offer, shall have the benefit of his bid, and be held bound to maintain it, by tendering the required deposit, if no higher offer shall be made; and on his failure to do so, the collector shall be competent to have recourse to the next highest bidder: provided however, that it shall at all times be competent to the collector, at his discretion, to commence the sale of the estate *de novo*, instead of concluding the sale with the next highest bidder.

If deposit not tendered when required, the lot to be again put up.

Third. Any person bidding at a public sale, who upon being called upon to conclude his purchase and lodge the prescribed deposit, may be unable, or may refuse to do so, shall be deemed guilty of contempt, and the collector shall be competent to impose a fine of an amount not exceeding 100 rupees, for every such offence, and if the fine be not paid, to send the delinquent to the judge of the district, who shall confine him in the civil jail, until the fine is paid, or for a period not exceeding fifteen days.

Persons failing to make deposit, how punishable.

XV. *First.* If at a public sale for arrears, the collector shall see reason to believe, that the highest bidder, or person with whom he is about to conclude a sale, is purchasing for the defaulter, or has given in a fictitious name, concealing that of the true purchaser or purchasers, or has stated as the purchaser the name of a person other than the party or parties with whose money, at whose risk, and for whose benefit the purchase may have been made, or has concealed the name of any such party, it shall be competent to him to refuse to conclude the sale. In every such case however, he shall hold a proceeding in the Persian language, stating distinctly the grounds of his belief, and the reason of his setting aside the individual, and disallowing his purchase: provided also, that in such cases the party so bidding shall be liable to a fine equal in amount to the deposit which would have been paid, had the sale been concluded at the price bid, or to such other fine not exceeding that amount, as the Board may, on the report of the collector, see fit to impose; all such fines adjudged by the Board, shall be recoverable by the process in use for the recovery of arrears of revenue from *sudder* farmers and their sureties.

In what cases collector may refuse to conclude a sale with highest bidder.

Collector in such cases, to record the grounds of refusal.

Penalty for bidding by defaulter, or *benamee*, if purchase be disallowed.

Second. It shall be in the power of any person whose purchase may be disallowed, to appeal from the collector's order to the Board of Revenue, or other authority exercising the powers of that Board, and provided he give in to the collector a written protest, claiming the lot before the breaking up of the *cutcherree*, or at the next sitting of the collector, or transmit a petition to that effect to the Board within 24 hours of the conclusion of the sale, it shall be competent to the Board, or other authority aforesaid, to direct the sale to be concluded with the party disallowed, to the prejudice of any other purchaser at an inferior price.

Persons whose purchase is disallowed by collector, may appeal to the Board.

XVI. The term defaulter, wherever used in this regulation, shall be deemed and considered to designate the person or persons with or on account of whom the settlement of the land revenue may have been concluded with Government, or the heirs, successors, or assignees of such person or persons, in possession of the interest acquired or confirmed by such settlement. And it shall not be construed to include those proprietors, *putteedars*, village *zemindars*, or the like, who at the time of the settlement held distinct properties, through paying their revenue through the recorded *malguzar*, save and except in so far as those persons may be expressly declared responsible to Government.

The term defaulter explained, to mean the person with whom settlement has been made by Government, or his representatives.

XVII. No sale shall be liable to be reversed on account of any proceedings, or order of the collector, or of the Board of Revenue, or other authority exercising the powers of that Board, touching the question of, whether a purchase is to be allowed or not: nor shall any action lie against Government on account of any such proceeding, or order.

Sales not to be set aside on plea of wrongful disallowance, but defaulter, if aggrieved, may sue for damages.

XVIII. *First.* Should the collector or other person conducting the sale, either at the time of concluding the sale, or at any subsequent time before the sale may have been confirmed by the Board of Revenue, or other authority exercising the powers of that Board, see reason to believe, that the real purchaser is a person on his establishment, or in any way connected with the management of the collections of the *zillah* or *pergunnah* within which the lot sold may be situated, he shall nevertheless conclude the sale and realize the purchase money, having recourse, if necessary, to the process prescribed for the recovery of arrears

Collector how to proceed, in the case of purchase by revenue officers.

due from *sudder* farmers or their sureties. It shall in such case be his duty to institute an immediate investigation, in order to bring the matter to proof, and the result of any proceedings that may be held upon such an investigation, shall be submitted to the Board of Revenue, or other authority aforesaid, who will determine whether the fact be established, or otherwise. Should they consider it to be proved, that the real purchaser is an individual employed at the time on the collector's establishment, or otherwise in the collection of the revenue of the local division within which the lot is situated, the Board, or other authority aforesaid, shall report the circumstances to the Governor General in Council, who will, if he deem it expedient, direct the lot to be attached, and held for Government, or to be resold or escheated, or otherwise disposed of at his pleasure. The amount of the purchase money shall in that case be credited to the defaulter in the same manner as if the sale stood good, and if the purchaser contest the fact of his being a person prohibited from purchasing, he shall have his remedy in an action at law, for the recovery of any amount he may have paid into the treasury, with interest and damages.

Governor General may confiscate.

Purchaser may contest by suit in court.

Collector how to proceed, on discovery of *benamee* purchase, before delivering possession.

XIX. If at any time after the conclusion of the sale, and before the receipt of the Board's confirmation and the delivery of possession, the collector shall see reason to believe, that the name or names given in at the time of sale was, or were other than the name or names of the real *bond fide* purchaser, or purchasers, he shall be competent to stay delivery of possession, and to institute an investigation to bring the matter to proof. On completion of the inquiry, he shall communicate the result to the Board of Revenue, or other authority exercising the powers of that Board, who shall be competent to annul the sale, and to direct the lot to be resold, and also to impose upon the party, who bid at the sale, such fine as they may see fit, not exceeding the amount of the deposit paid, or payable on the price at which the sale was concluded. The fine so imposed shall be realised from the deposit, if it *shall* have been paid, or shall be recoverable, if the deposit shall not have been paid, by the process in use for the recovery of arrears of revenue from *sudder* farmers, and their sureties.

After possession given, the purchaser shall not be ousted without suit in court.

XX. *First.* When the Board of Revenue, or other authority exercising the powers of that Board, shall have confirmed a sale, and possession shall have been given to the purchaser, he shall not be liable to be disturbed on the plea of any illegality in the purchase, excepting by decree of a court of justice in a regular suit.

Process to be followed in case of *benamee* purchase discovered after possession given.

Second. If at any time after a sale may have been confirmed and possession given, it shall be discovered, that the real purchaser is the defaulter, or a person other than the person who may have been designated as the purchaser at the time of sale, and the fact shall be established by a decree of a court of judicature, whether at the suit of Government, or of an individual, in which latter case information shall be given by the court passing the decree to the collector, then if Government or its officers were not a party to the suit, it shall be competent to the collector with the sanction of the Board of Revenue, or other authority aforesaid, to impose on the party so offending, a fine not exceeding 25 per cent. on the amount of the purchase money, or if it shall appear advisable, and provided a period of two years shall not have elapsed from the date of sale, to cancel the sale, and to dispossess the purchaser, or his representative or representatives, (if put in possession,) returning to him, or them, three-fourths of the price realized at the public sale.

Also where revenue officer may purchase.

Third. If after possession has been given, it shall be proved by a decree of court, that an estate has been illegally purchased by a revenue officer of Government, whether the suit shall have been instituted by the collector on the part of Government, or by the former owner of the estate sold, or by any other party, who may be induced to prosecute by the hope of reward, by any, or all of which persons, a suit to enforce the prescribed penalty may be brought, the court shall, in case there be no appeal lodged from the decree, or if there be appeal, the court passing the final judgment shall forward the decree to the Governor General in Council, in order that a confiscation of the estate may be declared. The Governor General in Council will be at liberty to dispose of any estate so confiscated, according to his pleasure.

Collector how to proceed, if purchase money be not paid in 10 days.

XXI. *First.* The entire amount of the purchase money shall, in all cases of sale for arrears of the public revenue, be made good by the 10th day from the day of sale, and if the whole

whole sum, including the amount deposited, be not made good before noon of that day, it shall be competent to the collector on the afternoon of the 10th day, or at such subsequent period as the Board of Revenue, or other authority exercising the powers of that Board, may from time to time direct, to notify by beat of drum, or by the issue of advertisements, or in such other manner as the Board or other authority aforesaid may direct, that the estate will be again exposed to sale on any subsequent day on which a sale of other lands may have been ordered to take place; and unless the first purchaser shall fully account to the satisfaction of the collector, or of the Board, for his failure to complete his purchase, the collector shall and may sell the estate so advertised for resale, at the risk of that person, who shall on his default forfeit the amount he may have already deposited, and all claim to the possession of the estate, as well as to all excess that may be realized at the second sale beyond the price at which the lot may have been sold in the first instance. If the price realized at the second sale be less than that of the first, the difference shall be leviable from the first purchaser by any of the processes authorized for realising an arrear of the Government revenue; the amount when recovered to be added to the purchase money for the benefit of the defaulter, and if there is an advance on the resale, it shall be carried to the account of the defaulter.

Estate to be resold at risk of first purchaser.

Second. Provided also, that in such cases it shall be competent to the collector, with the sanction of the Board, instead of reselling an estate, the purchaser of which may so fail to make good his purchase, to restore the estate to the original proprietor, on his discharging or making satisfactory arrangements for the liquidation of any arrears which may be due therefrom, together with interest and all expenses incurred by the sale, or other authorized charges, for which he may be justly liable.

Or restored to late proprietor.

XXII. When the purchase money payable on account of any estate sold for arrears of revenue, or resold on failure of the first purchaser, shall be realized, the balance *on account* of which the sale may have been made, as well as any former balances remaining due from the estate, with all interest and charges up to the day of sale, and also (unless otherwise specially stipulated) any subsequent *kists* that may have fallen due up to that date, shall first be made good to Government therefrom. The residue shall belong to the defaulter or defaulters, and be payable to his or their receipt upon demand. The purchaser will be answerable for the entire *kists* of the Government revenue that may be due on account of the month in which the sale is held, (unless otherwise specially stipulated,) and for all subsequent *kists*; and it is hereby prohibited to the *ryots* and under-tenants to make any payments on account of rent, or revenue falling due subsequently to the day of sale, or on account of the month in which the sale may be held, to the defaulter, or to any person whatever claiming to collect them as *sudder malgusar*, who may not bring a certificate or *umalnama* under the seal and signature of the collector, authorising him to do so, or a receipt for the advertised balance.

Purchase money how to be appropriated.

Responsibility of purchaser for the Government revenue, from what time to commence.

Under-tenants not to pay any rent falling due after day of sale, without authority from collector.

XXIII. Arrears that may be due at the time of sale from the under-tenants to the defaulter, shall be recoverable by him by suit in court, in the usual form; but if he shall choose to transfer his right therein to the new proprietor, the latter may proceed against the defaulting under-tenants for the recovery of the amount so due by them, in the same manner as if the arrears had accrued subsequently to his acquisition of the *mohaul*.

Arrears due to defaulter to be recovered by suit in the usual form, unless transferred.

XXIV. *First.* When any estate may be sold for the recovery of arrears of revenue, the collector shall, as soon as possible after the full amount of the purchase money shall have been realized, transmit a report of the sale and the accounts thereof, together with any proceedings he may have held upon the occasion, to the Board of Revenue, or other authority exercising the powers of that Board for confirmation, and no sale shall be deemed absolute, or entitle the purchaser to assume possession of the lands sold, until the confirmation of the Board, or other authority aforesaid, shall have been received.

Collector to report sales to the Board, and not to give possession until confirmed.

Second. If the party whose lands may have been sold, shall desire to contest the sale, it shall be competent to him to present a petition to the Board of Revenue, or other authority exercising the powers of that Board, at any time within thirty days from the date of sale, until which date, the Board, or other authority aforesaid, shall not issue any final order of confirmation. Provided also, that it shall be competent to the Board, or other authority aforesaid

Persons objecting to sale may petition the Board, who will allow time before confirmation.

said, to allow a further term, in case they deem it necessary, for the purpose of investigation or any other sufficient cause.

Board may annul sales, and their order in that case shall be final.

Third. If on perusal of the collector's proceedings, or the petition of the party, the Board or other authority aforesaid shall see sufficient ground for withholding their confirmation of the sale, it shall be competent to them to annul the sale, after making any further inquiry they may judge necessary, and they shall similarly be authorised to postpone their final orders for such time as may be requisite for the investigation of the case. The order of the Board of Revenue, or other authority exercising the powers of that Board, for annulling a sale, on whatever ground founded, shall be conclusive.

Sales may be contested by suit in court, though confirmed by Board.

XXV. If the Board of Revenue, or other authority exercising the powers of that Board, shall confirm the sale, it shall nevertheless be competent to the former proprietors, or any of them, to institute a suit in the civil court to contest its validity, and if it shall be established to the satisfaction of the court, that any one or more of the conditions above declared to be essential to the validity of a sale have not been observed, it shall be competent to the court to annul the sale: provided however, that the court shall not admit or take up any such plea, unless the same shall have been urged by the party in his petition to the Board, or other authority aforesaid, or unless the failure to do so, shall be satisfactorily accounted for.

But shall not be set aside, except on plea urged to the Board.

Suit to be dismissed, if failure of some condition of validity be not proved.

But court may adjudge damages for irregularity or the like.

XXVI. If the party suing shall fail to establish to the satisfaction of the court, that the sale is invalid by reason of the failure of any of the said conditions, the suit shall be dismissed; but if it shall appear to the court, in which the decision may be passed on the original suit or in appeal, that the proceedings of the collector or any of his officers have been improper or irregular, and that the plaintiff has been endamaged from that cause, it shall be competent to the court to adjudge such damages to the plaintiff as may appear equitable, in compensation for the injury sustained by him, and in such case to declare, whether the damages shall be paid by Government, or by the collector personally, or by any of his officers. Provided also, that it shall in such cases be competent to the court to submit to the Governor General in Council, a recommendation that the estate sold should be restored to the plaintiff, with a statement of the compensation, which it may appear equitable to allow to the purchaser, recording the same, with the reasons for it at length, on his decree; and whenever a case may be so submitted by any court, and no appeal may be lodged against the judgment, it shall be competent to the Governor General in Council, if he shall be satisfied that the case is one justifying such an interference, to cause the estate to be restored to the plaintiff, on his making the compensation recommended. But if the purchaser shall desire to retain his purchase, and the case be open to a regular appeal under the general regulations, the purchaser will of course be at liberty to appeal to the court possessing appellate jurisdiction, in order to contest the propriety of the recommendation submitted to Government, or of any part of it. In such case, the decision of Government will be suspended until the final judgment be passed; but if the purchaser shall merely contest the adequacy of the compensation proposed to be assigned to him, it shall be competent to the Governor General in Council, if he shall resolve to adopt the recommendation of the court passing the original decree, immediately to order the restoration of the estate to the former *zemindars*, on payment of the amount adjudged to be due as compensation to the purchaser; and in such event, the fee payable on the institution of appeal, shall be calculated on the difference between that amount and the sum claimed, but the appellant shall not be entitled to judgment on any other point than that pleaded, viz. the adequacy of the compensation adjudged. In such case, the estate shall be held to be mortgaged in security for the eventual judgment.

And may certify cases of hardship to Governor General in Council.

Who may restore the former proprietor,—compensation being made to purchaser in such cases.

Proviso for appeals in such cases so certified.

Sale not to be contested by a party who has received any portion of the purchase money.

All parties interested may apply to have the excess of the sale proceeds lodged in Government securities.

XXVII. *First.* No person shall be entitled to contest the validity of a sale after having received any portion of the purchase money: nor shall any part of the sale proceeds of any estate be liable for the debts of the late proprietor, whilst the validity of the sale may be under contest. Provided however, that it shall be competent to the purchaser, or any other party interested, after a suit may have been lodged to contest the sale, to apply to the collector or the Board of Revenue, or other authority exercising the powers of that Board, in order to have the excess of the proceeds of sale beyond the Government demand, vested in Government securities, at the rate of the day, which in that case shall, on the final decision

sion of the suit, be delivered to the person entitled to the same, with the interest which may have accumulated. And if no such application shall be made, interest shall not be demandable upon the unappropriated amount remaining in deposit in the Government treasury.

Second. Provided likewise, that if the sale of any estate be reversed by decree of court, by reason of the failure of any of the conditions specified in Section 5. of this regulation, and it be determined that an arrear was due by the late proprietor at the time of sale, the estate shall not be restored to the defaulter until the amount of the arrear shall have been made good with interest, and the Government shall, on restoring the purchase money to the purchaser, pay to him the same rate of interest on the amount appropriated to the liquidation of its demand, as may be recoverable from the defaulter. In like manner, in cases in which it may be determined that no arrear was due at the time of sale, Government shall be answerable to the purchaser for any sums so appropriated, with interest thereon.

On sale being reversed, payment of the arrears due at the time of sale with interest, to be the condition of resuming possession.

Government to be answerable for the same interest on sums appropriated in payment of arrears as may be recovered from the defaulter.

XXVIII. *First.* On receiving the confirmation of a sale by the Board of Revenue, or other authority exercising the powers of that Board, the collector shall give possession to purchasers at the public sales of lands within their respective *zillahs*, by publishing at the head *cutcherree* of the *pergunnah*, or other *mohaul* sold, and at the *cutcherree* of the *dewanny adawlut*, in the jurisdiction of which, such *mohaul*, estate, or portion of estate, may be situated, a statement of the land sold, (as exhibited at the time of sale,) the name of the purchaser, the date of his purchase, and his succession to all the rights of the former possessor in the lands so exhibited. In the event of any further measures being necessary to put the purchaser in possession, the collector shall apply to the judge of the *zillah* or city, within which the land may be situated, and on inspection of the proclamation above mentioned, the judge shall put the purchaser in possession of the property sold to him, as therein specified, by the usual process for giving possession of lauded property under decrees of the courts of justice.

Rules for giving possession.

Statements to be published at certain *cutcherrees*.

If further measure necessary,

Zillah judge to be applied to, and possession to be given as in case of decree.

Second. Should obstacles be experienced in *giving* possession of an estate sold for arrears, whether in consequence of the opposition of the former proprietors, and the difficulty of settling their claims to reserved interests in any part of the lands sold, or from the opposition of persons asserting themselves to be in possession of *talooks* and other interests not affected by the process of sale for arrears, or because of boundary disputes with neighbouring *zemindars* or the like, or should the circumstances of the estate to be delivered over to the purchaser appear in other respects to render it expedient that a local commission should be appointed to inquire into the claims of the parties on the spot, in order to decide what lands shall be delivered over to the purchaser, and for what he shall be referred to a civil action against the opposite party, or *vice versâ*, it shall be competent to the Governor General in Council to depute a covenanted civil servant as a commissioner for the said purpose, and it shall be competent to the commissioner appointed under the provisions of this section, to determine in the first instance the limits of the lands in which the purchaser is to be held to have acquired an interest by his purchase, and the nature and extent of the rights and interests to be possessed by him under that title, and to give possession accordingly; leaving any party dissatisfied with his award to prosecute their claims by a regular suit in the *adawlut* against the party in whose favour such awards shall have been given: and the awards of such commissioner shall be maintained, and acted upon by the courts of judicature in all summary, or interlocutary decisions, or orders, until it shall be altered or reversed by a regular decree of court. A commissioner appointed as aforesaid shall be guided by the same rules as are observed by the *zillah* courts in the investigation and decision of summary suits, unless otherwise specially directed by the Governor General in Council, and shall be considered and be a court of civil judicature on all things relating to the cases falling within his cognizance, and to all persons concerned in such cases, whether as plaintiffs, or defendants, or their agents, or as witnesses summoned or examined in their behalf, and he shall possess and exercise in regard to such things or persons, as well as in regard to all persons whatsoever attached to, or in attendance at his *cutcherree*, the same powers and authority as are, or may be lawfully exercised in such matters by the *dewanny adawlut* of the *zillah*.

In case of difficulty in giving possession from disputes regarding tenures or boundaries, or of other sufficient reason.

Governor General in Council may appoint a civil servant commissioner to determine summarily the points at issue.

Such commissioner to be, unless otherwise provided, a civil court, and to have jurisdiction as such.

Third. If the late possessor shall dispute the right of the purchaser to any part of the property so delivered over to the purchaser, on the plea that it was not included in the purchase,

Disputes as to extent of purchase between purchasers and late proprietor, how to be settled.

chase, he (the former possessor) shall be at liberty to institute a regular suit in the *dewanny adawlut* for the recovery thereof; and in like manner, if the purchaser thinks himself entitled under the sale to any land, which the judge or officer appointed as above may not deliver over to him, he is at liberty to sue the late possessor for the same in the *dewanny adawlut*.

Disputes between purchaser and a third party as to extent of property conveyed by sale, how to be settled.

Fourth. If any other person, not being the late possessor of the estate sold, shall claim or assert an interest in any portion of the land delivered to the purchaser, on the plea that, (whether included in the sale, or not,) it formed no part of the property liable for the Government revenue assessed on the *mohaul* sold, he shall be at liberty to institute a suit for the recovery thereof, jointly against the former possessor of the *mohaul* sold and the purchaser. If the lands, or other property so claimed shall be adjudged to the plaintiff, costs of suit shall be payable by the late possessor of the *mohaul* sold, who shall further, if the land or property sued for, shall have been held by him as part of the estate sold, or shall have been clearly included in the sale, be compelled by the court to make adequate compensation to the purchaser.

Declaration as to extent of right conveyed by sale.

1st, where an estate may be sold for arrears accruing on another *mohaul*.

2d, where an estate may be sold in recovery of the revenue assessed upon it.

XXIX. In cases in which any land belonging to a defaulter, or his surety, may be sold for the recovery of an arrear of revenue, not being the land on account of which the arrear may have accrued, then whether the said land sold be *malgoozaree*, or *lakheraj*, the purchaser shall only be held to have acquired the rights, interests, and title possessed by the said defaulter or surety, in like manner as if the land had been sold by private sale, or under a decree of court in liquidation of a private debt. In the case, however, of an estate being sold for the recovery of any part of the revenue assessed upon it, since the act of sale transfers to the purchaser all the property and privileges which the engaging party possessed and exercised at the time of settlement, free from any accidents or incumbrances that may subsequently have been imposed, or have supervened thereupon, such as sale, gift, or other transfer, mortgage, marriage settlement, or other assignment, or the like, the property and privileges possessed and exercised as aforesaid, being perpetually hypothecated to Government, for the revenue assessed thereon, no claim of right founded on any act of the original engager or his representative, or on any plea impeaching the title by which the said engager may have held, shall be allowed to impugn the right of the revenue authorities to make the sale, or to bar or affect the title and interest conveyed to the purchaser by the sale.

Proviso.

Provided however, that if Government shall have acquired or assumed the property of any estate subsequently to a settlement, and shall have conveyed the same to another, the estate shall be held subject to all just claims to which it was liable at the time of such conveyance: consequently the party ousted on the assumption or acquisition by Government, shall not be barred by a sale made after such conveyance of any right he may have possessed, to recover from Government the property so assumed or acquired by it.

Persons claiming property, in an estate advertised, on what conditions to get possession.

Provided also, that when any person claiming the proprietary right in any *mohaul* shall have instituted a suit in court for the recovery of the same, if the party in possession of such *mohaul* shall neglect to discharge the revenue payable on account thereof, and a sale of the *mohaul* for the recovery of the arrears due shall have been ordered by the Board of Revenue, or other authority exercising the powers of that Board, it shall be competent to the said plaintiff to make application to the court to be put in possession of the contested *mohaul*, on paying the arrears with interest and charges due, and giving security as hereinafter provided. The judge on receiving such application shall cause notice thereof to be given to the defendant or to his authorized agent or *vakeel*, and if the defendant shall not have discharged the arrear for the recovery of which the sale may have been ordered, with the interest and charges, by noon of the court day next preceding that fixed for the sale, he shall receive the amount tendered by the plaintiff, and shall cause him to be put in possession, subject to the rules for taking security in the case of appellants and defendants, contained in clause fourth, Section 11, Regulation XIII. 1808, transmitting the amount received as aforesaid, with the necessary precept, to the collector.

Under-tenures how affected by sale for arrears.

XXX. In pursuance of the principle of holding the estate of a defaulter answerable for the punctual realization of the Government revenue in the state in which it stood at the time the settlement was concluded, (at which time, by the dissolution of its previous engagements, Government must be considered to resume all rights possessed on the acquisition of the country, save where otherwise specially provided,) all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager,

Where such tenures may be derivative from defaulters.

gager, as well as all agreements with *ryots* or the like settled or credited by the first engager or his representatives, subsequently to the settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter, or renew, shall be liable to be avoided and annulled by the purchaser of the estate, or *mohaul*, at the sale for arrears due on account of it, subject only to such conditions of renewal as attached to the tenure at the time of settlement aforesaid, saving always and except *bonâ-fide* leases of ground for the erection of dwelling houses, or buildings, or for offices thereunto belonging, or for gardens, tanks, canals, watercourses, or the like purposes, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect.

Governor General in Council may reserve under-tenures.

XXXI. The above rules regarding under-tenures are indispensible for the security of the public resources, and have accordingly been uniformly acted upon as a general and fundamental principle of the revenue system of this presidency; but as the application of the rules leaves an opening to abuse, by enabling a *zemindar*, who may have granted leases, or other temporary or permanent assignment of his land for a present money consideration, to annihilate the under-tenures so created by him, it is hereby provided, that it shall be competent to the Governor General in Council, when he shall see proper, at any time before a sale for arrears shall have been actually made, to direct it to be made, subject to the leases, assignments, or other incumbrances with which a proprietor in possession, his ancestors, or predecessors may have burthened his assessed estate, or to such of them as shall appear proper. In all such cases, notice of the condition imposed by the Governor General in Council shall be given by the collector at the time of calling up the lot for sale, and such further notification shall be made as the Governor General in Council may direct: provided however, that in case the sale so restricted shall not realise an amount equal to the arrear due at the time of sale, or there shall appear ground to apprehend, that by reason of the restriction the future realisation of the revenue will be endangered, *it shall be competent to* the Governor General in Council, at any time before such restricted sale shall have been finally confirmed under the rule contained in Section 22 of this regulation, to direct the sale to be cancelled, and a new sale of the estate to be made without restriction. If subsequently to confirmation, occasion should arise to bring to sale for arrears an estate purchased with a restriction of the above description, it shall at all times be competent to the Governor General in Council to direct that the *mohaul* shall be sold without any restriction beyond what may have attached to the tenure at the original settlement, or with the reservation before reserved. In the former event, should the purchase money realized by the unrestricted sale exceed in a large amount the sum obtained at the restricted sale, it shall further be competent to the Governor General in Council to direct a portion, or the whole of the excess to be paid to the persons whose interests having been reserved at the first, shall become void at the second sale.

What under-tenures to be maintained.

XXXII. The above rules, or any other rules contained in the existing regulations, by which persons are declared competent, under certain restrictions, to annul engagements contracted between former proprietors, and their under-tenants, and in certain cases to enhance the rent payable by such tenants, shall not be construed to entitle the purchasers of land at public sales to disturb the possession of any village *zemindar*, *putteedar*, *mofussil talookdar*, or other person having an hereditary transferable property in the land, or in the rents thereof, not being one of the proprietors party to the engagement of settlement or his representative. Nor shall the said rule be construed to authorize any purchaser as aforesaid to eject a *khoodkhaskt*, *kudeemee ryot*, or resident and hereditary cultivator, having a prescriptive right of occupancy. Nor shall a purchaser demand a higher rate of rent from an under-tenant of either of the above descriptions, than was receivable by the former *malguzar*, saving and except in cases in which such under-tenants may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, in consequence of abatements having been granted by the former *malguzars* from the old established rates by special favour, or for a consideration, or the like, or in cases in which it may be proved that according to the custom of the *pergunnah*, *mouzah*, or other local division, such under-tenants are liable to be called upon for any new assessment, or other demand not interdicted by the regulations of Government.

Mofussil settlements how to be made by purchaser.

XXXIII. Persons purchasing at public sale, who may be desirous of enhancing the rents of their under-tenants, shall as heretofore be required in the absence of specific engagements to serve a formal notice of their intention, as prescribed in Section 9, Regulation V. 1812; but nothing in the said section was intended, or shall be construed to affect the right of any individual possessing a transferable or hereditary right of occupancy to contest the justness of the demand so made: and to pay his rent as heretofore, until the contrary shall be decided by a competent court of justice. Nor in any respect to annul or diminish the title of the *ryots* to hold their land subject to the payment of fixed rents, or rents determinable by fixed rates, according to the law and usage of the country.

If the lot sold be only portion of a *mohaul*, statement of the grounds of assessment to be exhibited at the time of sale, and other information to be given.

But this no guarantee to purchasers, either of the defaulter's title;

Or of the *jumma*, if subsequently found disproportionate.

New allotment may be ordered by Government within 10 years, as in case of *bulwarras*.

XXXIV. If the lot sold form only a specific portion of an assessed *mohaul*, divided off for the purpose of sale, with a *jumma* specially assigned thereon, a statement of the grounds on which such assessment may have been fixed, shall be exhibited at the time of sale, for the information of purchasers, who will likewise be entitled to inspect any records of the office at which the sale may be conducted, that may be forthcoming, of a kind likely to give information as to the value of the lot. The statement, however, so exhibited, or other information howsoever procured, shall not be deemed to afford any guarantee to the purchaser of the title under which the late proprietor may have held the lands mentioned therein as part of the *mohaul* in arrear, or of their profit, or extent. Provided likewise, that in case it should subsequently be discovered, that the *jumma* settled on the portion of a *mohaul* so sold, is excessive, or substantially disproportionate, it shall be competent to the Governor General in Council, on the representation of the purchaser, his heirs, or assigns, made at any time within ten years from the date of sale, to order a new allotment of the *jumma* on the lands sold, and on the remainder of the *mohaul* from which the same may have been separated, on the principle prescribed for the cases of *bulwarras*; and in this case, all separations made at or after the time of sale shall be cancelled. Provided further, that in cases wherein the *jumma* assessed on a separated lot sold, shall from evident mistake, be fixed greatly too low, it shall be competent to the Governor General in Council, at any time within ten years from the date of sale, to cancel the sale, unless the purchaser consent to allow of a fresh allotment of the *jumma*. When a sale may be so cancelled, the amount of the purchase money shall be repaid to the purchaser, without interest, and if the late proprietor shall refuse, or fail to make good the amount when called on to do so, the lands sold shall become the property of Government: provided also, that whenever the *jumma* assessed on any lot shall be reduced under the above provisions, it shall be competent to the Governor General in Council to determine what compensation shall be paid by the purchaser who may benefit by such reduction of the assessment, or by his representative, to the party, or parties, the *jumma* of whose lands may be enhanced; or if the aforesaid purchaser or his representative shall refuse to pay the sum so awarded, to cause the lot to be resold, and after repaying to the purchaser, or his representative, the amount of his purchase money, without interest, to pay or distribute the remaining proceeds of the resale to or among the party or parties, the *jumma* of whose lands may be enhanced.

If the *jumma* allotted on sale of a portion of a *mohaul* be found too low, sale may be cancelled within 10 years, if purchasers refuse to allow fresh allotment.

Government may award compensation to be paid by the party benefited by re-allotment.

No abatement of *jumma* to be made, without the sanction of Government.

And revenue authorities, exclusively competent to take cognizance of questions touching the amount of assessment.

XXXV. It is hereby declared and enacted, that no abatement of a *jumma* once fixed by the revenue authorities, shall be made, except by the authority of the Governor General in Council; and it is hereby further declared, that the revenue authorities only are competent to take cognizance of any question affecting the amount of *jumma* assessed, or fixed on any lands paying revenue directly to Government, and that the fixing, altering, or modifying the amount of Government revenue on such lands, shall belong exclusively to those authorities, subject of course to the general control of the Governor General in Council.

In case of a purchase by Government, the rules for *khas* management to be applicable.

XXXVI. If a collector shall at any time, being so instructed by either the Government or the Board, purchase on account of Government, an estate exposed to sale for the recovery of arrears of revenue, the rules applicable to the management of ordinary *malgu-zaree mohauls* held *khas*, or farmed, shall be considered applicable to such estate, and also to all other estates, the property of Government, according as they may be held *khas* or let in farm.

Collectors to have the power of punishing for contempt.

XXXVII. *First.* With a view to enable the revenue authorities to maintain due order in their *cutcherrees*, more particularly at the time of conducting judicial investigations

and holding public sales, it is hereby enacted, that the Board of Revenue, or other authority exercising the powers of that Board, or any member thereof exercising separate authority, the collectors of land revenue, or other covenanted officer employed in the collection of the revenue, shall be competent to punish any contempt, outrage, or disturbance committed in open *cutcherree* in their presence, by fine to an extent not exceeding 100 rupees, commutable, if not immediately paid, to imprisonment in the *dewanny* jail of the district for a period not exceeding fifteen days. A similar power shall be vested in any officer employed in conducting public sales under the authority of the Revenue Boards.

Second. The orders passed in such cases by the aforesaid officers shall be final, saving the general powers belonging to the Board and to Government, of revising and controlling the acts of subordinate revenue officers; and the *willah* judges are required, on receiving a copy of the order passed by such officer adjudging the aforesaid penalty, immediately to take measures to enforce the same, in the same manner as if a like penalty had been imposed by order of court.

Orders in such cases to be final, saving the power of control vested in the Boards and Government.

Zillah Judges are to enforce the penalty ordered, in the manner as if adjudged by a court.

XXXVIII. It is hereby declared and enacted, that Government is not, and shall not be held liable for any error or irregularity, which may have occurred, or shall occur in any order, proceeding, or decree of any court of judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be employed, in giving effect to the order, proceeding, or decree deemed to be erroneous or irregular. Nor shall any officer of Government be held liable for any thing done, or suffered in conformity with an order, proceeding, or decree of a court as aforesaid, and if any person or persons shall sue Government or any officer of Government for any thing done or suffered under an order, proceeding, or decree of court as aforesaid, such person or persons shall be nonsuited, with costs. The same principle is and shall be held applicable to all orders, proceedings, or decrees made, held, or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints, or informations whatsoever, unless otherwise specially provided.

Government not liable for errors of the courts of justice, whether revenue officers be or be not employed in executing the court's orders.

XXXIX. Nothing contained in this regulation shall be construed to limit, or affect the powers and authorities conferred by Regulation I. 1821, upon the *sudder* and *mofussil* commissioners acting under the provisions of that enactment, in regard to the annulment of sales.

This regulation not to interfere with Regulation I. 1821.

A. D. 1824. REGULATION XII.

A REGULATION *for reviving the Penalty formerly imposed on wilful Revenue Defaulters.*—PASSED *by the Governor General in Council, on the* 22*d July* 1824; *corresponding with the* 8*th Sawun* 1231 *Bengal era; the* 11*th Sawun* 1231 *Fusily; the* 9*th Sawun* 1231 *Willaity; the* 11*th Sawun* 1881 *Sumbut; and the* 24*th Zekaad* 1239 *Higeree.*

Preamble.

WHEREAS many of the *zemindars* of Bengal, Behar, and Benares, notwithstanding the advantages derived by them from the permanent assessment of their estates, wilfully neglect to pay their revenue according to their engagements, and causelessly withhold the public dues until their estates are put up to sale; and whereas much public inconvenience having been experienced from such default, it appears to be expedient to revive the rule under which defaulters were liable, in addition to the prescribed interest, to a penalty at the rate of 12 per cent. per annum on the arrears due from them respectively, the following rule is enacted, to be in force from the date of the promulgation of this regulation.

Clause first, Section 28, Regulation V. 1812, rescinded, and the provisions which were annulled by that clause to be again in force.

II. Clause first, Section 28, Regulation V. 1812, is hereby rescinded, and the penalty prescribed by the provisions which were annulled by the said clause, and which are now re-enacted, shall, when imposed by the Board of Revenue, be realized in the same manner as an arrear of revenue.

A. D. 1824. REGULATION XIV.

A REGULATION *for modifying the Rules in Force for referring to the Collectors summary Suits in Cases of Arrear or Exaction of Rent.*—PASSED *by the Governor General in Council, on the* 22*d July* 1824; *corresponding with the* 8*th Sawun* 1231 *Bengal era; the* 11*th Sawun* 1231 *Fusnily; the* 9*th Sawun* 1231 *Willaity; the* 11*th Sawun* 1881 *Sumbut; and the* 24*th Zekaad* 1239 *Higeree.*

Preamble.

THE provisions contained in the regulations now in force, empowering the judges of the several *zillah* and city courts to refer to the collectors for adjustment and report summary suits relating to arrears or exactions of rent, have been found insufficient to expedite the trial and adjudication of such suits; and it has in consequence become indispensable to the attainment of that object that the revenue officers should be vested with authority to hear, investigate, and determine, by a summary process, *and subject* to a regular suit in the civil court, all suits, claims, and demands of rent, arrears or exactions of rent, between landholders or farmers of land, and their under-tenants, or between any other persons concerned in the receipt and payment of the land rents, which may be referred to them for that purpose by the judges of the *zillah* and city courts; the following rules have been accordingly enacted, to be in force from the date of their promulgation throughout the territories immediately subject to the presidency of Fort William.

Parts of former regulations modified.

II. *First.* Such parts of Regulations VII. 1799, V. 1800, XXVIII. 1803, V. 1812, VII. 1813, and XIX. 1817, or of any other regulation in force, as direct or authorize the judges of the *zillah* and city courts to refer summary suits relative to arrears or exactions of rent, or any summary suits within the provisions of the regulations above noticed, to the collectors of the land revenue for adjustment and report, are hereby modified as follows.

A judge referring to a collector summary suits under Section 13, Regulation XIX. 1817, shall issue a precept requiring him to try and decide the suit within a limited period;

Or assign a sufficient reason.

Second. Whenever the judge of a *zillah* or city court court, under the discretion vested in him by Section 13, Regulation XIX. 1817, may consider it proper, with a view to the speedy trial and determination of any summary suit of the nature therein mentioned, to refer the same to the collector of the district, he shall do so by a precept, requiring the collector to investigate and decide the suit referred to him; and to report his decision within a limited period; or to assign reason, at the expiration of such period, why the suit has not been decided, and what further time is requisite for bringing the same to a summary determination.

In the event of considerable delay, the judge may recall suits from the collector.

Third. In the event of considerable delay in the decision of a suit so referred to a collector, it shall be competent to the judge to recall the same, and to try the suit himself, or refer it to his register.

The collectors are competent summarily to determine suits referred to them under the foregoing section.

III. It shall be competent to the collectors summarily to hear, investigate, and determine, any suits of the nature of those above specified, which may be referred to them by the judges of the *zillah* and city courts, under the provisions of the foregoing section.

The collector how to be guided in the decision of such suits.

IV. In the trial and decision of such suits, the collector shall be guided by the rules contained in this regulation, and upon points to which these may not be applicable by the rules

The collector invested with the same powers as the civil courts in issuing all process.
Except the execution of decrees.

rules prescribed for the guidance of the civil courts in the trial and decision of summary suits of the same description. The collector shall also possess the same powers as are vested in the civil courts for causing the attendance of parties and witnesses, and generally for all process which it may be necessary to issue in such suits, except the execution of decrees, respecting which the following rule is to be observed.

All decisions to be notified by the collector to the judge of the court by which the suit was referred.
The collector's award to be executed by the judge.

V. All decisions passed by the collectors under the provisions of this regulation, shall be notified as soon as practicable, under the collector's official seal and signature, to the judge of the court, by which the suit may have been referred; and the whole of the papers received, and proceedings held in the case, shall at the same time be transmitted to that court, with a final return to the precept by which it was referred. In cases in which a specific sum shall have been adjudged to be due, or any costs or any damages awarded, the collector's award shall be executed by the judge, under the usual process of the civil court, immediately on his receiving the collector's return as directed; and generally whatever may be ordered by the summary judgment of the collector, consistently with the regulations, shall be carried into execution by the ordinary process of the civil court.

The parties are competent to appoint any *vakeel* or representative they may think proper.
The remuneration of such *vakeel* to be adjusted between himself and constituent.

VI. It shall be competent to the parties in all suits, the cognizance of which is hereby vested in the collectors of revenue, to employ any agent, *vakeel*, or representative, whom they may think proper to appoint, to act and plead in their behalf, provided such agent, *vakeel*, or representative, be duly empowered by the parties. The rate of remuneration to such agent or *vakeel* shall be left to be adjusted between himself and his constituent; but no greater sum shall be awarded on this account for costs payable by the party against whom the judgment may be passed, than what may be deemed by the collector a fair equivalent for the attendance of such agent.

No other pleadings requisite than a plaint and answer.

VII. No other pleadings shall be required from the parties in such suits than a plaint and answer, provided that if the parties should, at any time, wish to file an amended plaint, or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.

Pleadings, &c. to be written on stampt paper of the value of eight annas.
No fees to be taken on the exhibits.

VIII. The *moktarnamahs* or *vakalutnamahs*, and the pleadings and final decree in such suits, shall be written on stampt paper of the value of eight annas, whatever may be the amount of the suit; and no fees shall be taken on exhibits tendered in the cause, or for the witnesses required by the parties, nor shall it be necessary for the parties to present a written motion on stampt paper for the filing of such exhibits, or for the summoning of such witnesses.

Collectors competent to determine such suits in any part of the district, provided the proceedings be held in public.

IX. It shall be competent to the collectors to hear and determine such suits in whatever part of the district they may occasionally be, or reside, provided that every hearing and decision be in public *cutcherree*, or in some other place open to the public, and in the presence of the parties, or of their constituted agents or *vakeels*, if in attendance.

A regular suit may notwithstanding be preferred in the *zillah* or city court.

X. Any person who may be dissatisfied with the summary judgment of a collector passed under this regulation, and may be desirous of a more full and formal investigation of the merits of the case, shall be at liberty to prefer a regular suit in the local *zillah* or city court, and on the institution of such suit the proceedings held on the summary inquiry shall be filed on the record of the regular suit.